DRAFT

Waiver/Program Requirements and Eligibility Rule Revisions

Key (ctrl-f bracket type to find relevant revision):

\major revision\	{combined/moved similar language}
~~[outdated reference (removed)]~~	[outdated reference (to be updated)]

General Definitions

8.484.2 DEFINITIONS

8.484.2.A Age Appropriate Activities and Materials means activities and materials that foster social, intellectual, communicative, and emotional development and that challenge the individual to use their skills in these areas while considering their chronological age, developmental level, and physical skills.

8.484.2.B Covered HCBS means any Home- and Community-Based Service(s) provided under the Colorado State Medicaid Plan, a Colorado Medicaid waiver program, or a State-funded program administered by the Department. This category excludes Respite Services, Palliative/Supportive Care services provided outside the child's home under the Children with Life-Limiting Illness Waiver, and Youth Day Services under the CES Waiver.

8.484.2.C HCBS Setting means any physical location where Covered HCBS are provided.

1. HCBS Settings include, but are not limited to, Provider-Owned or -Controlled Non-residential Settings, Other Non-residential Settings, Provider-Owned or -Controlled Residential Settings, and Other Residential Settings.

2. If Covered HCBS are provided at a physical location to one or more individuals, the setting is considered an HCBS Setting, regardless of whether some individuals at the setting do not receive Covered HCBS. The requirements of this Section 8.484 apply to the setting as a whole and protect the rights of all individuals receiving services at the setting regardless of payer source.

8.484.2.D Informed Consent means the informed, freely given, written agreement of the individual (or, if authorized, their guardian or other legally authorized representative) to a Rights Modification. The case manager ensures that the agreement is informed, freely given, and in writing by confirming that the individual (or, if authorized, their guardian or other legally authorized representative) understands all of the information required to be documented in Section 8.484.5 and has signed the Department-prescribed form to that effect.

8.484.2.E Intensive Supervision means one-on-one (1:1), line-of-sight, or 24-hour supervision. Intensive Supervision is a Rights Modification if the individual verbally or non-verbally expresses that they do not want the supervision or if the supervision would be covered by the Department's processes for rights suspensions or restrictive procedures pursuant to the version of Sections 8.600.4, 8.604.3, and 8.608.1-2 in effect on December 30, 2021.

8.484.2.F Other Non-residential Setting means a physical location that is non-residential and that is not owned, leased, operated, or managed by an HCBS provider or by an independent contractor providing nonresidential services.

1. Other Non-residential Settings include, but are not limited to, locations in the community where Covered HCBS are provided.

8.484.2.G Other Residential Setting means a physical location that is residential and that is not owned, leased, operated, or managed by an HCBS provider or by an independent contractor providing residential services.

1. Other Residential Settings include, but are not limited to, Residential Settings owned or leased by individuals receiving HCBS or their families (personal homes) and those owned or leased by relatives paid to provide HCBS unless such relatives are independent contractors of HCBS providers.

8.484.2.H Person-Centered Support Plan means a service and support plan that is directed by the individual whenever possible, with the individual's representative acting in a participatory role as needed, is prepared by the case manager under Sections 8.393.2.E or 8.519.11, identifies the supports needed for the individual to achieve personally identified goals, and is based on respecting and valuing individual preferences, strengths, and contributions.

8.484.2.I Plain Language means language that is understandable to the individual and in their native language, and it may include pictorial methods, if warranted;

8.484.2.J Provider-Owned or -Controlled Non-residential Setting means a physical location that is non-residential and that is owned, leased, operated, or managed by an HCBS provider or by an independent contractor providing non-residential services.

1. Provider-Owned or -Controlled Non-residential Settings include, but are not limited to, provider-owned facilities where Adult Day, Day Treatment, Specialized Habilitation, Supported Community Connections, Prevocational Services, and Supported Employment Services are provided.

8.484.2.K Provider-Owned or -Controlled Residential Setting means a physical location that is residential and that is owned, leased, operated, or managed by an HCBS provider or by an independent contractor providing residential services.

1. Provider-Owned or -Controlled Residential Settings include, but are not limited to, Alternative Care Facilities (ACFs); Supported Living Program (SLP) and Transitional Living Program (TLP) facilities; group homes for adults with intellectual or developmental disabilities (IDD); Host Homes for adults with IDD; any Individual Residential Services and Supports (IRSS) setting that is owned or leased by a service provider or independent contractor of such a provider; and foster care homes, Host Homes, group homes, residential child care facilities, and Qualified Residential Treatment Programs (QRTPs) in which Children's Habilitation Residential Program (CHRP) services are provided.

8.484.2.L Restraint means any manual method or direct bodily contact or force, physical or mechanical device, material, or equipment that restricts normal functioning or movement of all or any portion of a person's body, or any drug, medication, or other chemical that restricts a person's behavior or restricts normal functioning or movement of all or any portion of their body. Physical or hand-over-hand assistance is a Restraint if the individual verbally or non-verbally expresses that they do not want the assistance or if the assistance is a safety or emergency control procedure or would be covered by the Department's processes for rights suspensions or restrictive procedures pursuant to the version of Sections 8.600.4, 8.604.3, and 8.608.1-2 in effect on December 30, 2021.

8.484.2.M Restrictive or Controlled Egress Measures means devices, technologies, or approaches that have the effect of restricting or controlling egress or monitoring the coming and

going of individuals. The following measures are deemed to have such an effect and are Restrictive or Controlled Egress Measures: locks preventing egress; audio monitors, chimes, motion-activated bells, silent or auditory alarms, and alerts on entrances/exits at residential settings; and wearable devices that indicate to anyone other than the wearer their location or their presence/absence within a building. Other measures that have the effect of restricting or controlling egress or monitoring the coming and going of individuals are also Restrictive or Controlled Egress Measures.

8.484.2.N Rights Modification means any situation in which an individual is limited in the full exercise of their rights.

1. Rights Modifications include, but are not limited to:

    a. the use of Intensive Supervision if deemed a Rights Modification under the definition in Section 8.484.2.E above;

    b. the use of Restraints;

    c. the use of Restrictive or Controlled Egress Measures;

    d. modifications to the other rights in Section 8.484.3 (basic criteria applicable to all HCBS Settings) and Section 8.484.4 (additional criteria for HCBS Settings);

    e. any provider actions to implement a court order limiting any of the foregoing individual rights;

    f. rights suspensions under Section 25.5-10-218(3), C.R.S.; and

    g. all situations formerly covered by the Department's processes for rights suspensions or restrictive procedures pursuant to the version of Sections 8.600.4, 8.604.3, and 8.608.1-2 in effect on December 30, 2021.

2. Modifications to the rights to dignity and respect, the rights in Sections 8.484.3.A.6-11 (covering such matters as person-centeredness; civil rights; freedom from abuse; and Plain-Language explanations of rights, dispute resolution policies, and grievance/complaint procedures), and the right to physical accessibility are not permitted.

3. For children under age 18, a limitation or restriction to any of the rights in Sections 8.484.3 and 8.484.4 that is typical for children of that age, including children not receiving HCBS, is not a Rights Modification. Consider age-appropriate behavior when assessing what is typical for children of that age. If the child is not able to fully exercise the right because of their age, then there is no need to pursue the Rights Modification process under Section 8.484.5. However, if the proposed limitation or restriction is above and beyond what a typically developing peer would require, then it must be handled as a Rights Modification under Section 8.484.5.

General Waiver Requirements – items that are required for all waivers (Client functional, financial etc. eligibility)

Waiver/Program Requirements and Eligibility Rule Revisions

Specific Waiver Requirements/Eligibility- (does not include waiver services)

- CHILDREN'S HCBS WAIVER (CHILDREN'S HCBS)- 10.C.C.R. 2505-10, Section 8.506
- CHILDREN'S EXTENSIVE SUPPORT WAIVER (HCBS-CES)- 8.503
- CHILDREN'S HABILITATION RESIDENTIAL PROGRAM WAIVER (HCBS-CHRP)- 8.508
- CHILDREN with LIFE-LIMITING ILLNESS WAIVER (HCBS-CLLI)- 8.504
- PERSONS with BRAIN INJURY WAIVER (HCBS-BI)- 8.515
- COMMUNITY MENTAL HEALTH SUPPORTS WAIVER (HCBS-CMHS)- 8.509
- PERSONS who are ELDERLY, BLIND, AND DISABLED WAIVER (HCBS-EBD)- 8.485
- COMPLEMENTARY AND INTEGRATIVE HEALTH WAIVER (HCBS-CIH)- 8.517
- SUPPORTED LIVING SERVICES WAIVER (HCBS-SLS)- 8.500.90
- PERSONS with DEVELOPMENTAL DISABILITIES WAIVER (HCBS-DD)- 8.500

{General Definitions (re CLIENT ELIGIBILITY SECTION)}

Activities of Daily Living means basic self-care activities including bathing, bowel and bladder control, dressing, eating, independent ambulation, and needing supervision to support behavior, medical needs and memory/cognition. (8.500.1)

Agency shall be defined as any public or private entity operating in a for-profit or nonprofit capacity, with a defined administrative and organizational structure. Any sub-unit of the agency that is not geographically close enough to share administration and supervision on a frequent and adequate basis shall be considered a separate agency for purposes of certification and contracts. (8.485.50)

Applicant means an individual who is seeking long-term services and supports eligibility determination and who has not affirmatively declined to apply for Medicaid or participate in an assessment.(8.500.1)

Assessment shall be as defined at Section **8.390.1.B**

Brain Injury means an injury to the brain of traumatic or acquired origin which results in residual physical, cognitive, emotional, and behavioral difficulties of a non-progressive nature and is limited to the following broad diagnoses found within the most current version of the International Classification of Diseases (ICD) at the time of assessment:

1. Nonpsychotic mental disorders due to brain damage; or
2. Anoxic brain damage; or
3. Compression of the brain; or
4. Toxic encephalopathy; or
5. Subarachnoid and/or intracerebral hemorrhage; or
6. Occlusion and stenosis of precerebral arteries; or
7. Acute, but ill-defined cerebrovascular disease; or
8. Other and ill-defined cerebrovascular disease; or
9. Late effects of cerebrovascular disease; or

10. Fracture of the skull or face; or

11. Concussion resulting in an ongoing need for assistance with activities of daily living; or

12. Cerebral laceration and contusion; or

13. Subarachnoid, subdural, and extradural hemorrhage, following injury; or

14. Other unspecified intracranial hemorrhage following injury; or

15. Intracranial injury; or

16. Late effects of musculoskeletal and connective tissue injuries; or

17. Late effects of injuries to the nervous system; or

18. Unspecified injuries to the head resulting in ongoing need for assistance with activities of daily living.(8.515.3)

Case Management shall be as defined at **Section 8.390.1.C**, including the calculation of client payment and the determination of individual cost-effectiveness.

Case Management Agency (CMA) means a public, private, or non-governmental non-profit agency that meets all applicable state and federal requirements and is certified by the Department to provide case management services for Home and Community-based Services waivers pursuant to sections **[25.5-10-209.5 C.R.S.]** and pursuant to a provider participation agreement with the state department.(8.500.1)

Client means an individual who has met Long-Term Services and Supports (LTSS) eligibility requirements and has been offered and agreed to receive Home and Community Based Services (HCBS) in **\one of the state's HCBS waiver** programs. (8.500.1 and 8.600.4 Definitions)

Complex Behavior: Behavior that occurs related to a diagnosis by a licensed physician, psychiatrist, or psychologist that includes one or more substantial disorders of the cognitive, volitional or emotional process that grossly impairs judgment or capacity to recognize reality or to control behavior. (8.508.20.K)

Complex Medical Needs: Needs that occur as a result of a chronic medical condition as diagnosed by a licensed physician that has lasted or is expected to last at least twelve (12) months, requires skilled care, and that without intervention may result in a severely life-altering condition. . (8.508.20.L)

Congregate facility shall be defined as a residential facility that provides room and board to three or more adults who are not related to the owner and who, because of impaired capacity for independent living, elect protective oversight, personal services and social care but do not require regular twenty-four hour medical or nursing care. (8.485.50)

Uncertified Congregate Facility shall be a facility as defined at Section 8.485.50.E. that is not certified as an Alternative Care Facility. See Section 8.495.1

Continued Stay Review shall be defined as a re-assessment conducted as described at Section 8.402.60 and 8.390.1.R.(8.500.1)

Comprehensive Review of the Person's Life Situation means a thorough review of all aspects of the person's current life situation by the program-approved service agency in conjunction with other members of the interdisciplinary team. (8.600.40)

Corrective Action Plan shall be as defined at Section **8.390.1.D**

Cost Containment means limiting the cost of providing care in the community to less than or equal to the cost of providing care in an institutional setting based on the average aggregate amount. The cost of providing care in the community shall include the cost of providing home and community-based services

and Medicaid state plan benefits including long-term home health services and targeted case management. (8.503.I)

Crisis: An event, series of events, and/or state of being greater than normal severity for the client and/or family that becomes outside the manageable range for the client and/or their family and poses a danger to self, family, and/or the community. Crisis may be self-identified, family identified, and/or identified by an outside party.

Deinstitutionalized shall be defined as waiver clients who were receiving nursing facility type services reimbursed by Medicaid, within forty-five (45) calendar days of admission to HCBS-EBD. These include hospitalized clients who were in a nursing facility immediately prior to inpatient hospitalization and who would have returned to the nursing facility if they had not elected HCBS-EBD.(8.485.50)

Diverted shall be defined as HCBS-EBD waiver recipients who were not deinstitutionalized.(8.485.50)

Developmental Delay means that a child meets one or more of the following:
A. A child less than five (5) years of age who is at risk of having a developmental disability because of the presence of one or more of the following:

1. Chromosomal conditions associated with delays in development,
2. Congenital syndromes and conditions associated with delays in development,
3. Sensory impairments associated with delays in development,

4. Metabolic disorders associated with delays in development,

5. Prenatal and perinatal infections and significant medical problems associated with delays in development,

6. Low birth weight infants weighing less than 1200 grams, or

7. Postnatal acquired problems resulting in delays in development.

B. A child less than five (5) years of age who is significantly delayed in development in one or more of the following areas:

1. Communication,

2. Adaptive behavior,

3. Social-emotional,

4. Motor,

5. Sensory, or

6. Cognition.

C. A child less than three (3) years of age who lives with one or both parents who have a developmental disability. (8.600.4 Definitions)

Developmental Disabilities Professional means a person who has at least a bachelor's degree and a minimum of two (2) years' experience in the field of developmental disabilities or a person with at least five (5) years of experience in the field of developmental disabilities with competency in the following areas:

A. Understanding of civil, legal and human rights;

B. Understanding of the theory and practice of positive and non-aversive behavioral intervention strategies;

C. Understanding of the theory and practice of non-violent crisis and behavioral intervention strategies (8.600.4 Definitions)

Developmental Disability means a disability that:

A. Is manifested before the person reaches twenty-two (22) years of age;

B. Constitutes a substantial disability to the affected individual, as demonstrated by the criteria below at C, 1 and/or C, 2; and,

C. Is attributable to an intellectual and developmental disability or related conditions which include Prader-Willi syndrome, cerebral palsy, epilepsy, autism or other neurological conditions when such conditions result in impairment of general intellectual functioning or adaptive behavior similar to that of a person with an intellectual and developmental disability. Unless otherwise specifically stated, the federal definition of “developmental disability” found **[42 U.S.C. § 15002, et seq.]**, shall not apply.

1. **Impairment of general intellectual functioning** means that the person has been determined to have a full scale intellectual quotient equivalent which is two or more standard deviations below the mean (70 or less assuming a scale with a mean of 100 and a standard deviation of 15).

a. A secondary score comparable to the General Abilities Index for a Wechsler Intelligence Scale that is two or more standard deviations below the mean may be used only if a full scale score cannot be appropriately derived.

b. Score shall be determined using a norm-referenced, standardized test of general intellectual functioning comparable to a comprehensively administered Wechsler Intelligence Scale or Stanford-Binet Intelligence Scales, as revised or current to the date of administration. The test shall be administered by a licensed psychologist or a school psychologist.

c. When determining the intellectual quotient equivalent score, a maximum confidence level of ninety percent (90%) shall be applied to the full scale score to determine if the interval includes a score of 70 or less and shall be interpreted to the benefit of the applicant being determined to have a developmental disability.

2. **Adaptive behavior similar to that of a person with intellectual disability** means that the person has an overall adaptive behavior composite or equivalent score that is two or more standard deviations below the mean.

a. Measurements shall be determined using a norm-referenced, standardized assessment of adaptive behaviors that is appropriate to the person's living environment and comparable to a comprehensively administered Vineland Scale of Adaptive Behavior, as revised or current to the date of administration. The assessment shall be administered and determined by a professional qualified to administer the assessment used.

b. When determining the overall adaptive behavior score, a maximum confidence level of ninety percent (90%) shall be applied to the overall adaptive behavior score to determine if the interval includes a score of 70 or less and shall be interpreted to the benefit of the applicant being determined to have a developmental disability.

D. A person shall not be determined to have a developmental disability if it can be demonstrated such conditions are attributable to only a physical or sensory impairment or a mental illness. (8.600.4 Definitions)

Early and Periodic Screening Diagnosis and (EPSDT) means as defined in **[Section 8.280.1.]**(8.503.O)

Extraordinary Needs is a level of care due to Complex Behavior and/or Medical Support Needs that is provided in a residential child care facility or that is provided through community-based programs, and without such care, would place a child at risk of unwarranted child welfare involvement or other system involvement.

Extreme Safety Risk to Self is a factor in addition to specific Supports Intensity Scale (SIS) scores that is considered in the calculation of a client's support level. This factor shall be identified when a client:

A. Displays self-destructiveness related to self-injury, suicide attempts or other similar behaviors that seriously threaten the client's safety; and,

B. Has a rights suspension in accordance with **[Section 8.604.3]** or has a court order that imposes line of sight supervision unless the client is in a controlled environment that limits the ability of the client to harm himself or herself. (8.600.4 Definitions)

Family as used in rules pertaining to support services and the Family Support Services Program means a group of interdependent persons residing in the same household that consists of a family member with a developmental disability or a child under the age of five (5) years with a developmental delay, and one or more of the following:

A. A mother, father, brother(s), sister(s) or any combination; or,

B. Extended blood relatives such as grandparent(s), aunt(s) or uncle(s); or,

C. An adoptive parent(s); or,

D. One or more persons to whom legal custody of a person with a developmental disability has been given by a court; or,

E. A spouse and/or his/her children. (8.600.4)

Financial Eligibility means an individual meets the eligibility criteria for a publicly funded program, based on the individual's financial circumstances, including income and resources. (8.390.1)

Functional Eligibility means that the applicant meets the criteria for long term services and supports as determined by the Department’s prescribed instrument. (8.500.1)

Functional Needs Assessment means a comprehensive face-to-face evaluation using the Uniform Long-term Care instrument and medical verification on the Professional Medical Information Page to determine if the client meets the institutional Level of Care (LOC). (8.500.1)

Group Residential Services and Supports (GRSS) means residential habilitation provided in group living environments of four (4) to eight (8) clients receiving services who live in a single residential setting, which is licensed by the Colorado Department of Public Health and Environment as a residential care facility or residential community home for persons with developmental disabilities. (8.500.1)

Grievance is the formal expression of a complaint or grievance.

Guardian means an individual at least twenty-one years of age, resident or non-resident, who has qualified as a guardian of a minor or incapacitated person pursuant to appointment by a parent or by the court. The term includes a limited, emergency, and temporary substitute guardian but not a guardian ad litem S, as set forth in Section 15-14-102 (4), C.R.S. (8.500.1)

Guardian Ad Litem (GAL) means a person appointed by a court to act in the best interests of a child involved in a proceeding under title 19, C.R.S., or the "School Attendance Law of 1963," set forth in Article 33 of Title 22, C.R.S. (8.500.1)

Home and Community-Based Services (HCBS) WAIVER means services and supports authorized through a 1915(c) waiver of the Social Security Act and provided in community settings to a client who requires a level of institutional care that would otherwise be provided in a hospital, nursing facility, or Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF-IDD) (8.500.1)

Increased Risk Factors are situations or events that occur at a certain frequency or pattern historically that have led to Crisis.

Individual Cost Containment Amount means the average cost of services for a comparable population institutionalized at the appropriate level of care, as determined annually by the Department (8.515.3,8.500.1)

{**Inability for independent ambulation** means (1) the individual does not walk, and requires the use of a wheelchair or scooter in all settings, whether or not they can operate the wheelchair or scooter safely, on their own, or (2) the individual does walk, but requires the use of a walker or cane in all settings, whether or not they can use the walker or cane safely, on their own, or (3) the individual does walk but requires "touch" or "stand-by" assistance to ambulate safely in all settings} **[from CIH waiver app In eff 7-1-22; further detailed in CIH target population eligibility**]

Institution means a hospital, nursing facility or intermediate care facility for individuals with intellectual disabilities (ICF-IDD) for which the Department makes Medicaid payment under the Medicaid State Plan. (8.500.1)

Intellectual and Developmental Disability means a disability that manifests before the person reaches twenty-two (22) years of age, that constitutes a substantial disability to the affected person, and that is attributable to an intellectual and developmental disability or related conditions, including Prader-Willi syndrome, cerebral palsy, epilepsy, autism, or other neurological conditions when the condition or conditions result in impairment of general intellectual functioning or adaptive behavior similar to that of a person with an intellectual and developmental disability. Unless otherwise specifically stated, the federal definition of "developmental disability" found in 42 U.S.C. sec. 15001 et seq., does not apply. (8.500.1)

> **Impairment of general intellectual functioning** means the person has been determined to have an intellectual quotient equivalent which is two or more standard deviations below the mean (70 or less assuming a scale with a mean of 100 and a standard deviation of 15), as measured by an instrument which is standardized, appropriate to the nature of the person's disability, and administered by a qualified professional. the standard error of measurement of the instrument should be considered when determining the intellectual quotient equivalent. When an individual's general intellectual functioning cannot be measured by a standardized instrument, then the assessment of a qualified professional shall be used. (8.500.1)
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> **Adaptive behavior** similar to that of a person with intellectual and developmental disabilities means the person has overall adaptive behavior which is two or more standard deviations below the mean in two or more skill areas (communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure, and work), as measured by an instrument which is standardized, appropriate to the person's living environment, and administered and clinically determined by a qualified professional. These adaptive behavior limitations are a direct result of, or are significantly influenced by, the person's substantial intellectual deficits and may not be attributable to only a physical or sensory impairment or mental illness. (8.500.1)

Substantial intellectual deficits means an intellectual quotient that is between 71 and 75 assuming a scale with a mean of 100 and a standard deviation of 15, as measured by an instrument which is standardized, appropriate to the nature of the person's disability, and administered by a qualified professional. the standard error of measurement of the instrument should be considered when determining the intellectual quotient equivalent. (8.500.1)

Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) means a publicly or privately-operated facility that provides health and habilitation services to a client with an intellectual or developmental disability or related conditions. (8.500.1)

Level of Care (LOC) means the specified minimum amount of assistance a client must require in order to receive services in an institutional setting under the Medicaid State Plan.

Level of Care Evaluation means a comprehensive evaluation with the Individual seeking services and others chosen by the Individual to participate, conducted by the case manager utilizing the Department's prescribed tool, with supporting diagnostic information from the Individual's medical providers, for the purpose of determining the Individual's level of functioning for admission or continued stay in Long-Term Services and Supports (LTSS) programs. (8.508.20.NN)

Level of Care Screen shall be defined as an assessment conducted in accordance with Section 8.401 (8.509.14.O).

Life-Limiting Illness means a medical condition that, in the opinion of the medical specialist involved, has a prognosis of death that is highly probable before the child reaches adulthood at age 19(8.504.l). **{A life-limiting illness means a medical condition that, in the opinion of the medical specialist involved, has a prognosis of death that is highly probable before the child reaches adulthood. Conditions that are incurable, irreversible, and that usually result in death are considered as one criterion for eligibility for the HCBS-CLLI waiver.}**

Long Term Services and Supports (LTSS) refers to the services and supports used by individuals of all ages with functional limitations and chronic illnesses who need assistance to perform routine daily activities. (8.500.1)

Medicaid Eligible means an applicant or client meets the criteria for Medicaid benefits based on the applicant's financial determination and disability determination when applicable. (8.500.1)

Parent means the biological or adoptive parent. (8.600.4)

Professional Medical Information Page means the medical information form signed by a licensed medical professional used to certify Level of Care.

Provider agency shall be defined as an agency certified by the Department and which has a contract with the Department to provide one or more of the services listed at Section 8.485.40. A Single Entry Point Agency is not a provider agency, as case management is an administrative activity, not a service. Single Entry Point Agencies may become service providers if the criteria in Sections 8.390-8.393 are met. (8.485.50)

Public Safety Risk-Convicted means a factor in addition to specific SIS scores that is considered in the calculation of a client's support level. This factor shall be identified when a client has:

A. Been found guilty through the criminal justice system for a criminal action involving harm to another person or arson and who continues to pose a current risk of repeating a similar serious action; and,

B. A rights suspension in accordance with **[Section 8.604.3]** or through parole or probation, or a court order that imposes line of sight supervision unless the client is in a controlled environment that limits his

or her ability to engage in the behaviors that pose a risk or to leave the controlled environment unsupervised. (8.600.4)

Public Safety Risk-Not Convicted means a factor in addition to specific SIS scores that is considered in the calculation of a client's support level. This factor shall be identified when a client has:

A. Not been found guilty through the criminal justice system, but who does pose a current and serious risk of committing actions involving harm to another person or arson; and,

B. A rights suspension in accordance with **[Section 8.604.3]** or through parole or probation, or a court order that imposes line of sight supervision unless the client is in a controlled environment that limits his or her ability to engage in the behaviors that pose a risk or to leave the controlled environment unsupervised. . (8.600.4)

Reassessment shall be defined as a periodic revaluation according to the requirements at **[Section 8.509.32.C.]** (8.509.14.R)

Referral means any notice or information (written, verbal, or otherwise) presented to a CMA which indicates that a person may be appropriate for services or supports provided through the developmental disabilities system and for which the CMA determines that some type of follow-up activity for eligibility is warranted. (8.600.4)

Respondent means a person participating in the SIS assessment who has known the client for at least three months and has knowledge of the client's skills and abilities. The respondent must have recently observed the client directly in one or more places such as home, work, or in the community. (8.600.4)

Request for Developmental Disability Determination means written formal documentation, either handwritten or a signed standardized form, which is submitted to a CMA requesting that a determination of developmental disability be completed. (8.600.4)

Screening for Early Intervention Services means a preliminary review of how a child is developing and learning in comparison to other similarly situated children.

Seclusion means the placement of a client alone in a closed room for the purpose of punishment. Seclusion for any purpose is prohibited. (8.600.4)

SIS Interviewer means an individual formally trained in the administration and implementation of the Supports Intensity Scale by a Department-approved trainer using the Department-approved curriculum. SIS Interviewers must maintain a standard for conducting SIS assessments as measured through periodic interviewer reliability reviews. (8.600.4)

Support is any task performed for the client where learning is secondary or incidental to the task itself or an adaptation is provided.(8.500.1)

Support Coordinating Agency means a CMA which has been designated as the agency responsible for the coordination of support services (Supported Living Services for adults and the Children's Extensive Support program) within its service area. (8.600.4)

Supports Intensity Scale (SIS) is the standardized assessment tool that gathers information from a semi-structured interview of respondents who know the client well. It is designed to identify and measure the practical support requirements of adults with developmental disabilities. (8.600.4)

Support Level means a numeric value determined using an algorithm that places clients into groups with other clients who have similar overall support needs. (8.600.4)

Three Hundred Percent (300%) Eligible persons shall be defined as persons:

1) Whose income does not exceed 300% of the SSI benefit level, and

2) Who, except for the level of their income, would be eligible for an SSI payment; and

3) Who are not eligible for medical assistance (Medicaid) unless they are recipients in an HCBS program or are in a nursing facility or hospitalized for thirty (30) consecutive days. (8.509.14.S)

Utilization Review Contractor (URC) means the agency contracted with the Department to review the HCBS waiver applications for determination of eligibility based on the additional targeting criteria.

Utilization Review means approving or denying admission or continued stay in the waiver based on level of care needs, clinical necessity, amount and scope, appropriateness, efficacy or efficiency of health care services, procedures or settings.

Waiver Service means optional services defined in the current federally approved HCBS waiver documents and do not include Medicaid State Plan benefits.

{8.485 HOME AND COMMUNITY-BASED SERVICES WAIVER PROGRAMS}

8.485.10 LEGAL BASIS

The Home and Community Based Services (HCBS) programs in Colorado are each authorized by a waiver of the amount, duration and scope of services requirements contained in Section 1902(a)(10)(B) of the Social Security Act. The waivers were granted by the United States Department of Health and Human Services, under Section 1915(c) of the Social Security Act. The HCBS waiver programs are also authorized under state law at C.R.S. section noted by waiver program – as amended:

Elderly, Blind, and Disabled (HCBS-EBD) C.R.S Section 25.5-6-301

{Developmental Disabilities (HCBS-DD) C.R.S Section 25.5-6-401

Community Mental Health & Supports (HCBS-CMHS) C.R.S Sections 25.5-6-601 through 25.5-6-607

Persons with Brain Injury (HCBS-BI) C.R.S. Section 25.5-6-701, et seq.

Supported Living Services (HCBS-SLS) C.R.S. Section 25.5-6-404

Children's Habilitation Residential Program (HCBS-CHRP) C.R.S. 25.5-5-306(1) (1995 Supp);

Children with Life-Limiting Illness (HCBS-CLLI) C.R.S. Section 25.5-5-305

Complementary & Integrative Health (HCBS-CIH) C.R.S. 25.5-6-13.01-13.04 as amended;

Children's Home & Community-Based Services (Children's HCBS) C.R.S Section 25.5-6-901, et seq.

Children's Extensive Services (HCBS-CES) C.R.S. Section 25.5-6-401}

8.485.20 KEYS AMENDMENT COMPLIANCE

All congregate facilities where any HCBS client resides must be in compliance with the "Keys Amendment" as required under Section 1616(e) of the Social Security Act of 1935 and 45 C.F.R. Part 1397 (October 1, 1991), by possession of a valid Assisted Living Residence license issued under C.R.S. section 25-27-105, and regulations of CDPHE at 6 CCR 1011-1, Chapters 2 and 7. C.R.S. section 25-27-105 and 6 CCR 1011-1 are hereby incorporated by reference. The incorporation of C.R.S. section 25-27-105 and 6 CCR 1011-1 excludes later amendments to, or editions of, the referenced material. The

Department maintains copies of this incorporated text in its entirety, available for public inspection during regular business hours at: Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver Colorado 80203. Certified copies of incorporated materials are provided at cost upon request.

[8.485.60] ELIGIBLE PERSONS {GENERAL REQUIREMENTS}

[.61] HCBS waiver services shall be offered to persons who meet all of the eligibility requirements below provided the individual can be served within the capacity limits in the federal waiver.

The HCBS waivers:

1. Shall not constitute an entitlement to services from either the Department or the Operating Agency,

2. Shall be subject to annual appropriations by the Colorado General Assembly,

3. Shall ensure enrollments do not to exceed the federally-approved capacity, and

4. May limit the **{individual waiver program's}** enrollment when utilization of the HCBS Waiver program is projected to exceed the spending authority. (8.500.2.D, 8.50091.F)

The section hereby incorporates terms and provisions of the federally-approved Home and Community-Based Services waivers. To the extent that the terms of the federally approved waiver are inconsistent with the provisions of this section, the waiver(s) shall control. (8.500.90)

A. Financial Eligibility

1. Clients shall meet the Medicaid Assistance eligibility criteria for Long Term Care as stated at Section 8.100. Clients must also meet criteria specified in the Colorado Department of Human Services Income Maintenance Staff Manual, 9 CCR 2503-1, (2018).

2. The applicant's income must be less than 300% or three times the current Supplemental Security Income Federal Benefit Rate and countable resources less than $2,000 for a single person or $3,000 for a couple.

{3. Spousal impoverishment rules under §1924 of the Act are used to determine the eligibility of individuals with a community spouse for the special home and community-based waiver group. In the case of a participant with a community spouse, the state elects to use spousal post-eligibility rules under §1924 of the Act.}

{4. The HCBS waiver programs provide services for individuals who are dually eligible for both Medicare and Medicaid.

5. Applicants/clients may be eligible to participate in the adult HCBS waiver programs through the Medicaid Buy-in Program for Working Adults with Disabilities if all listed eligibility criteria is met, refer to 8.100.6.P.}

B. Level of Care and Target Group

{1. Clients are referred to the case management agency (CMA) for an initial HCBS eligibility determination. The level of care (LOC) eligibility determination screen utilizes the current state-prescribed LOC determination screening instrument to determine an individual's need for institutional level of care.

2. The state-prescribed instrument measures six defined Activities of Daily Living (ADLs) and the need for supervision for behavioral or cognitive dysfunction. ADLs include bathing, dressing, toileting, mobility, transferring, and eating.

3. Level of care evaluations and reevaluations are performed by case management agencies and utilize the same instrument in determining the level of care for the waiver as for institutional care under the State Plan.}

4. To qualify for Medicaid long-term care services, the applicant/client must have deficits in two of six Activities of Daily Living, ADLs, (2+ score) or require at least moderate (2+ score) in Behaviors or Memory/Cognition under Supervision. ([Section 8.401.1] Guidelines for Long Term Care Services)

5. The applicant must also be at risk of placement in a nursing facility, hospital, or Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) within one month, but for the availability of waiver services. See individual waiver program for specific level of care requirement.

6. For initial LOC eligibility determinations, the Professional Medical Information Page (PMIP) is required to be completed by a treating medical professional who verifies the individual's need for institutional level of care.

7. The applicant/client must require long-term services and supports (LTSS) to remain in their own home, in the family residence, or in the community.

8. To utilize HCBS waiver benefits, the applicant/client must choose to receive services in their homes or communities.

9. The cost of HCBS waiver services cannot be more than the cost of placement in a nursing facility, hospital, or ICF/IID as defined at [Section 8.XXXX DEFINITIONS] and the client's safety and health can be assured in the community within the federally approved capacity and the cost containments of the enrolled waiver program.

10. Clients who have been determined to meet the level of care and target group criteria shall be certified by a CMA Agency as eligible for HCBS waiver services. The CMA Agency shall only certify HCBS waiver eligibility for those clients:}

a. **{Determined by the CMA Agency to meet the target group definition for *one or more waiver programs detailed in the Target Population Criteria section of each HCBS waiver program in [Section XXXX].}***
b. Determined by a formal level of care assessment to require the level of care available in a nursing facility, hospital, or ICD/IDD according to **[Section 8.401.11 through 8.401.15] (*refer to specific HCBS waiver program for level of care required***); or
c. A length of stay shall be assigned by the CMA Agency for approved admissions, according to guidelines at Section **[8.402.60]**.

C. Receiving HCBS Waiver Services

1. Only clients who receive HCBS services ***{as listed at HCBS WAIVER SERVICES, [section XXX],}*** or who have agreed to accept HCBS services as soon as all other eligibility criteria have been met, are eligible for an HCBS waiver program.

2. Case management is not a service and shall not be used to satisfy this requirement ***{(the Children's Home and Community Based Services (CHCBS) Waiver Program excepted.)}***

3. Desire or need for home health services or other Medicaid services that are not identified as HCBS waiver services ***{as listed at WAIVER SERVICES, [section XXX],}*** shall not satisfy this eligibility requirement.

4. HCBS waiver program clients who have received no HCBS waiver services for one month must be discontinued from the program

5. Enrolled clients may receive HCBS services from **only** one HCBS waiver program at a time.

D. Institutional Status (8.485.60.61.D)

1. Clients who are residents of nursing facilities, hospitals, ***{or ICD/IDDs}*** are not eligible for HCBS ***{waiver services}*** while residing in such institutions.

2. A client who is already an **{HCBS waiver recipient}** and who enters a hospital for treatment may not receive HCBS waiver services while in the hospital. If the hospitalization continues for 30 days or longer, the case manager must terminate the client from the HCBS waiver program.

3. A client who is already an **{HCBS waiver}** recipient and who enters a nursing facility **{or ICD/IDD}** may not receive HCBS waiver services while in the nursing facility or ICF/IID.

(a) The case manager must terminate the client from the HCBS waiver program if Medicaid pays for all or part of the nursing facility care or ICF/IID, or if there is a URC-certified ULTC-100.2 for the nursing facility or ICF/IID placement, as verified by telephoning the URC.

(b) A client receiving HCBS waiver services who enters a nursing facility for respite care as a service under certain HCBS waiver program ***{(identified under Section XXX Waiver Services)}*** shall not be required to obtain a nursing facility ULTC-100.2, and shall be continued as an HCBS waiver client in order to receive the HCBS waiver service of respite care in a nursing facility ***{(if respite - nursing facility is offered in enrolled HCBS waiver program}***.

E. Cost-effectiveness

Only clients who can be safely served within cost containment, as defined at **[Section 8.485.50 [replace with Section XXX General Definitions]]**, are eligible for the HCBS waiver programs.

{F. Maintenance of HCBS Waiver Eligibility}

[8.500.4.B] The Client shall maintain eligibility by meeting the criteria as set forth in **{[Section XXX] General Eligibility Requirements and Waiver program-specific requirements (as indicated in enrolled HCBS waiver program) and the following:}**

1. Reevaluation of the client is required within twelve (12) months of the initial or previous assessment to verify Medicaid eligibility and other financial and program eligibility. The **Continued Stay Review** will follow the same procedures found at **[Section 8.401.11-.17]**(H) .

2. Must receive at least one (1) HCBS waiver service each calendar month. (8.500.4.B 1-4)

3. Must not be simultaneously enrolled in any other HCBS waiver program.

{4. Must not be residing in a hospital, nursing facility, ICF-IID, correctional facility or other institution. (found in applications for EBD, CMHS, BI, CHCBS, CLLI, SLS, DD)

5. Is served safely in the community with the type and amount of waiver services available and within the federally approved capacity and cost containment limits of the waiver.}

{G.} Waiting List

Persons who are determined eligible for services under **{an HCBS}** waiver, who cannot be served within the capacity limits of the federal waiver, shall be eligible for placement on **{the HCBS waiver's}** waiting list.

1. The waiting list shall be maintained by the Department.

2. The date used to establish the person's placement on the waiting list shall be the date on which eligibility for services under the **{HCBS}** waiver was initially determined.

3. As openings become available within the capacity limits of the federal waiver, persons shall be considered for services based on the following priorities:

    a. Clients being deinstitutionalized from nursing facilities **{or ICF/IDDs}**.

    b. Clients being discharged from a hospital who, absent waiver services, would be discharged to a nursing facility**{, hospital, or ICF/IID}** at a greater cost to Medicaid.

    c. Clients, ***{currently receiving}*** long-term home health benefits, who could be served at a lesser cost to Medicaid.

    d. Clients with high ULTC 100.2 scores who are at risk of imminent nursing facility**{, hospital, or ICF/IDD}** placement.

Applicants denied program enrollment shall be informed of the client's appeal rights in accordance with Section **[8.057]** (8.503.60).

{H.} TERMINATION

A client shall be discontinued {**from the HCBS waiver in which enrolled}** when one of the following occurs:

1. The client no longer meets the criteria set forth **{in the enrolled HCBS waiver program}**;

2. The costs of services and supports provided in the community exceed the cost effectiveness exceeds **{related institutional level of care specific}** costs;

3. The client enrolls in another HCBS waiver program or is admitted for a long-term stay beyond 30 consecutive days in an Institution; or

4. The client does not receive a waiver service during a full one-month period. [8.508.140, 8.486.300.301]

A client shall also be terminated from the HCBS waiver if they die, move out of state, or voluntarily withdraw from the waiver. ***{refer to HCBS Waiver Denials and / or Discontinuations Section XXX under Case Management Functions, see [8.509.30.C.1.a-j or at Section 8.393.3.A]}***

{HCBS WAIVER PROGRAM-SPECIFIC CLIENT ELIGIBILITY}

CHILDREN'S HCBS WAIVER (CHCBS)- 10.C.C.R. 2505-10, Section 8.506

A. Target Population Criteria (8.506.6.A)
To be eligible for the HCBS-CHCBS waiver, a child shall meet the target population criteria as follows:

1. Have not reached his/her eighteenth (18th) birthday.

2. Lives at home with parent(s) or guardian.

3. Meet Hospital Level of Care **{as defined in [42 CFR §440.10] (the state additionally limits the waiver to the subcategory of acute hospital level of care)}** or Nursing Facility Level of Care **{as defined in [42 CFR §440.40 and 42 CFR §440.155] (the State additionally limits the waiver to the subcategory of skilled nursing facilities level of care).}**

{4. A disability determination will be conducted prior to approval of the CHCBS waiver to assure that the federal SSI definition of disability is met,}

5. The child's parent(s) or guardian chooses to receive services in the home or community instead of an institution, and

6. The child, due to parental income and/or resources, is not otherwise eligible for Medicaid benefits or enrolled in other Medicaid waiver programs (8.506.6.A.1.d)

B. Medicaid Eligibility Groups Served in the Waiver
{This waiver provides services to individuals in the special home and community based waiver group under [42 CFR §435.217].}

C. Other
1. The income and resources **of the child** do not exceed 300% of the current maximum Social Security Insurance (SSI) standard maintenance allowance (8.506.6.B.2).

2. Individuals who meet eligibility criteria for the CHCBS waiver and cannot be served within the federally approved waiver capacity limits shall be eligible for placement on a **waiting list maintained by the URC**. (8.506.7.B, C)

3. A child on the waitlist shall be prioritized for enrollment onto the waiver if they meet any of the following criteria:
   a. Have been in a hospital for 30 or more days and require waiver services in order to be discharged from the hospital.
   b. Are on the waiting list for an organ transplant.
   c. Are dependent upon mechanical ventilation or prolonged intravenous administration of nutritional substances.
   d. Have received a terminally ill prognosis from their physician. (8.506.7.I)

CHILDREN'S EXTENSIVE SUPPORT WAIVER (HCBS-CES)- 10.C.C.R. 2505-10, Section 8.503

A. Target Population Criteria (8.503.30)
To be eligible for the HCBS-CES waiver, an individual shall meet the target population criteria as follows:

1. Is unmarried and less than eighteen (18) years of age,

2. Be determined to have a **developmental disability** (which includes a **developmental delay** if under five (5) years of age) and that requires long term services and supports to remain in the family home,

3. Meet the Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) level of care as determined by the Functional Needs Assessment **{and as defined in [42 CFR §440.150]}**

4. Reside in an eligible HCBS-CES waiver setting as defined as the following:

a. With biological, adoptive parent(s), or legal Guardian,

b. In an out-of-home placement and can return home with the provision of HCBS-CES waiver services with the following requirements:

i. The case manager will work in conjunction with the residential caregiver to develop a transition plan that includes timelines and identified services or supports requested during the time the client is not residing in the family home. The case manager will submit the transition plan to the Department for approval prior to the start of services.

5. Be determined to meet the Federal Social Security Administration's definition of disability,

6. Be determined by the Department or its agent to meet the HCBS-CES waiver client eligibility criteria:

a. The individual demonstrates a behavior or has a medical condition that requires direct human intervention, more intense than a verbal reminder, redirection or brief observation of status, at least once every two hours during the day and on a weekly average of once every three hours during the night. The behavior or medical condition must be considered beyond what is typically Age Appropriate and due to one or more of the following conditions:

i. A significant pattern of self-endangering behavior or medical condition which, without intervention will result in a life-threatening condition or situation. Significant pattern is defined as the behavior or medical condition that is harmful to self or others as evidenced by actual events occurring within the past six (6) months,
ii. A significant pattern of serious aggressive behavior toward self, others or property. Significant pattern is defined as the behavior is harmful to self or others, is evidenced by actual events occurring within the past six (6) months, or
iii. Constant vocalizations such as screaming, crying, laughing or verbal threats which cause emotional distress to caregivers. The term constant is defined as on the average of fifteen (15) minutes each waking hour.

b. In the instance of an annual reassessment, the reassessment must demonstrate in the absence of the existing interventions or preventions provided through Medicaid that the intensity and frequency of the behavior or medical condition would resume to a level that would meet the criteria listed above.

{B. Medicaid Eligibility Groups Served in the Waiver}

Individuals who receive services in this waiver are eligible under the following eligibility groups contained in the state plan:

1. **SSI recipients**
2. **Optional state plan recipients**

C. Other

1. Cost Limit Lower Than Institutional Costs. The state refuses entrance to the waiver to any otherwise qualified individual when the state reasonably expects that the cost of home and community-based services furnished to that individual would exceed the following amount specified by the state that is less than the cost of a level of care specified for the waiver. This waiver has a spending limitation.}

2. Applicants who are determined eligible for benefits under the HCBS-CES waiver, who cannot be served within the capacity limits of the federally approved waiver, shall be eligible for placement on **a wait list** maintained by the Department.

CHILDREN'S HABILITATION RESIDENTIAL PROGRAM WAIVER (HCBS-CHRP)-

10.C.C.R. 2505-10, Section **8.508**

A. Target Population Criteria (8.508.40.A.)

To be eligible for the **HCBS-CHRP waiver**, an individual shall meet the **target population criteria** as follows:

1. Have not reached twenty-one (21) years of age (8.508.140.A.4),

2. Determined to have a developmental disability (which includes developmental delay if under five (5) years of age).
3. Have extraordinary needs that put the child at risk or in need of out-of-home placement.

4. Meet Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) level of care as determined by the level of care evaluation and as defined in 42 CFR §440.150)

B. Medicaid Eligibility Groups Served in the Waiver

Individuals who receive services in this waiver are eligible under the following eligibility groups contained in the state plan:

1. Children eligible for participation in the waiver for whom foster care maintenance payments are being made by the County Departments of Human/Social Services are mandated under federal law to receive Medicaid benefits under article C.R.S. 25.5-5-101, 1902(a)(10)(A)(i)(I) of the Social Security Act, and 42 CFR 435.145.

2. The state furnishes waiver services to all individuals in the special home and community-based waiver group under 42 CFR §435.217

{C. Other}

1. A **Support Need Level Assessment** must be completed upon determination of eligibility. The Support Need Level Assessment is used to determine the level of reimbursement for Habilitation and per diem Respite services (8.508.40.B).

2. Applicants who are determined eligible for benefits under the HCBS-CHRP waiver, who cannot be served within the capacity limits of the federally approved waiver, shall be eligible for placement on **a wait list** maintained by the Department (8.508.50).

CHILDREN with LIFE-LIMITING ILLNESS WAIVER (HCBS-CLLI)- 10.C.C.R. 2505-10, Section 8.504

A. Target Population Criteria (8.504.4.A**)**
To be eligible for the **HCBS-CLLI waiver**, an individual shall meet the **target population criteria** as follows:

1. Have not reached 19 years of age,

2. Have been diagnosed with a life-limiting illness, as certified by a physician on the Department prescribed form, the Professional Medical Information Page (PMIP),

3. **{Meet}** **Hospital Level of Care** as determined by the Case Manager using the Department-approved assessment tool **{and as defined in [42 CFR §440.10], and}**

4. Live in their **family home**.

{B. Medicaid Eligibility Groups Served in the Waiver}
Individuals who receive services in this waiver are eligible under the following eligibility groups contained in the state plan:

1. **SSI recipients**
2. **Optional state plan recipients**

C. Misc.
1. Applicants who are determined eligible for benefits under the HCBS-CLLI waiver, who cannot be served within the capacity limits of the federally approved waiver, shall be eligible for placement on **a wait list** maintained by the Department. (8.504.5.B.)

PERSONS with BRAIN INJURY WAIVER (HCBS-BI)- 10.C.C.R. 2505-10, Section 8.515

A. Target Population Criteria (8.515.5)
To be eligible for the HCBS-BI waiver, an individual shall meet the target population criteria as follows:

1. Be determined to have a brain injury that occurred prior to the individual's 65th birthday.

   a. The Department defines brain injury as an injury to the brain of traumatic or acquired origin which results in residual physical, cognitive, emotional, and behavioral difficulties of a non-progressive nature and is **{*limited to the current International Classification of Diseases*, as detailed in [Section XXXX General Definitions].}**

2. Be **16 years of age or older.**

3. Meet Hospital Level of Care {as defined in [42 CFR §440.10]} and as evidenced by:

a. The individual shall have been (8.515.A.1):

i. Referred to the Case Management Agency while receiving inpatient care in an acute care or rehabilitation hospital for the treatment of the individual's brain injury; or

ii. Determined by the Department or its agent to have a significant functional impairment as evidenced by a comprehensive functional assessment using the Uniform Long-term Care 100.2 (ULTC 100.2) assessment tool that results in at least the minimum scores required by Section **[8.401.1.15]**; and

b. The individual shall require goal-oriented therapy with medical management by a physician; and

c. The individual cannot be therapeutically managed in a community-based setting without significant supervision and structure, specialized therapy, and support services; **{or}**

{4. Meet Nursing Facility Level of Care as defined in [42 CFR §440.40] and [42 CFR §440.155}

B. Medicaid Eligibility Groups Served in the Waiver

{Individuals who receive services in this waiver are eligible under the following eligibility groups contained in the state plan:

1. SSI recipients
2. Optional state plan recipients
3. Working individuals with disabilities who buy into Medicaid (BBA working disabled group as provided in §1902(a)(10)(A)(ii)(XIII)) of the Act)
4. Working individuals with disabilities who buy into Medicaid (TWWIIA Basic Coverage Group as provided in §1902(a)(10)(A)(ii)(XV) of the Act)}

{C. Other}

1. Persons determined eligible for HCBS-BI services that cannot be served within the capacity limits of the HCBS-BI waiver shall be eligible for placement on a waiting list (8.515.7.A).

COMMUNITY MENTAL HEALTH SUPPORTS WAIVER (HCBS-CMHS)- 10.C.C.R. 2505-10, Section 8.509

A. Target Population Criteria (8.509.15.A.2)

To be eligible for the HCBS-CMHS waiver, an individual shall meet the target population criteria as follows:

1. Experience a severe and persistent mental health need that requires assistance with one or more Activities of Daily Living (ADL); further defined as

a. A person experiencing a severe and persistent mental health need is defined as someone who:
Is 18 years of age or older with a severe and persistent mental health need; and

b. Currently has or at any time during the past year leading up to assessment has a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet diagnostic criteria specified within the Diagnostic and Statistical Manual of Mental Disorders (DSM -5); and

i. Has a disorder that is episodic, recurrent, or has persistent features, but may vary in terms of severity and disabling effects; and
ii. Has resulted in functional impairment which substantially interferes with or limits one or more major life activities.

A severe and persistent mental health need does not include:

1) Intellectual or developmental disorders; or

2) Substance use disorder without a co-occurring diagnosis of a severe and persistent mental health need.

.

{2. Meet Nursing Facility Level of Care as determined by the functional needs assessment and as defined in 42 CFR §440.40 and 42 CFR §440.155}

3. A length of stay shall be assigned by the URC for approved admissions, according to guidelines at Section 8.402.50.

B. Medicaid Eligibility Groups Served in the Waiver
{Individuals who receive services in this waiver are eligible under the following eligibility groups contained in the state plan:

1. SSI recipients
2. Optional state plan recipients
3. Working individuals with disabilities who buy into Medicaid (BBA working disabled group as provided in §1902(a)(10)(A)(ii)(XIII)) of the Act)
4. Working individuals with disabilities who buy into Medicaid (TWWIIA Basic Coverage Group as provided in §1902(a)(10)(A)(ii)(XV) of the Act)}

ELDERLY, BLIND, AND DISABLED WAIVER (HCBS-EBD)-10.C.C.R. 2505-10, Section 8.485

A. Target Population Criteria (8.485.60)
To be eligible for the HCBS-EBD waiver, an individual shall meet the target population criteria as follows:

1. Determined by the CMA Agency to meet the target group definition for **functionally impaired elderly, or the target group definition for physically disabled or blind adult**; (8.485.60.61.B) and

{2. Minimum and maximum age for individuals served in each subgroup}
a. Aged: Be 65 years of age or older}
b. Physically Disabled or Blind: Be 18-64 years of age (Those participants who are physically disabled who reach the age of 65 automatically get transferred to the Aged subgroup with no break in services, and/or
c. HIV/AIDS: Be 18 years of age or older.}

{2. Meet Nursing Facility Level of Care as defined in 42 CFR §440.40 and 42 CFR §440.155} and according to Section **[8.401.11 through 8.401.15]** (8.485.60.61.B.0)

B. Medicaid Eligibility Groups Served in the Waiver
{Individuals who receive services in this waiver are eligible under the following eligibility groups contained in the state plan:

1. SSI recipients
2. Optional state plan recipients
3. Working individuals with disabilities who buy into Medicaid (BBA working disabled group as provided in §1902(a)(10)(A)(ii)(XIII)) of the Act)
4. Working individuals with disabilities who buy into Medicaid (TWWIIA Basic Coverage Group as provided in §1902(a)(10)(A)(ii)(XV) of the Act)}

C. Other
{1. HCBS-EBD clients that enter a nursing facility or hospital may not receive HCBS-EBD waiver services while admitted to the nursing facility or hospital.}
a. HCBS-EBD clients admitted to a nursing facility or hospital for 30 consecutive days or longer shall be discontinued from the HCBS-EBD program.
b. HCBS-EBD clients entering a nursing facility for Respite Care as an HCBS-EBD service shall not be discontinued from the HCBS-EBD program.}

2. Persons determined eligible for HCBS-EBD services that cannot be served within the capacity limits of the HCBS-EBD waiver shall be eligible for placement on **a waiting list.**

COMPLEMENTARY AND INTEGRATIVE HEALTH WAIVER (HCBS-CIH)- 10.C.C.R. 2505-10, Section 8.517 (USED CCR effective 7-1-2022)

A. Target Population Criteria (8.517.5.A)
To be eligible for the HCBS-CIH waiver, an individual shall meet the target population criteria as follows:

1. Be aged 18 years or older

2. Individuals shall have a qualifying condition of a s**pinal cord injury (traumatic or nontraumatic), multiple sclerosis, a brain injury, spina bifida, muscular dystrophy, or cerebral palsy with the inability for independent ambulation** directly resulting from one of these conditions as defined by broad diagnoses related to each condition within the most current version of the International Classification of Diseases (ICD) at the time of assessment.

3. Individuals must have been determined to have an **inability for independent ambulation** resulting from the qualifying condition as identified by the case manager through the assessment process. The inability for independent ambulation means:

a. The individual does not walk, and requires use of a wheelchair or scooter in all settings, whether or not they can operate the wheelchair or scooter safely, on their own, OR;

b. The individual does walk, but requires use of a walker or cane in all settings, whether or not they can use the walker or cane safely, on their own, OR;

c. The individual does walk, but requires “touch” or “stand-by” assistance to ambulate safely in all settings.

2. **Meet Hospital Level of Care {as defined in 42 CFR §440.10 or}**

3. **Nursing Facility** Level of Care **{as defined in 42 CFR §440.40 and 42 CFR §440.155}**

B. Medicaid Eligibility Groups Served in the Waiver
{Individuals who receive services in this waiver are eligible under the following eligibility groups contained in the state plan:

1. **SSI recipients**
2. **Optional state plan recipients**
3. **Working individuals with disabilities who buy into Medicaid (BBA working disabled group as provided in §1902(a)(10)(A)(ii)(XIII)) of the Act)**
4. **Working individuals with disabilities who buy into Medicaid (TWWIIA Basic Coverage Group as provided in §1902(a)(10)(A)(ii)(XV) of the Act)}**

C. Other
1. Persons determined eligible for HCBS- CIH services that cannot be served within the capacity limits of the HCBS-CIH waiver shall be eligible for placement on **a waiting list.**

SUPPORTED LIVING SERVICES WAIVER (HCBS-SLS)- 10.C.C.R. 2505-10, Section 8.500.90

A. Target Population Criteria (8.500.93.A. 1-7)
To be eligible for the **HCBS-SLS waiver**, an individual shall meet the **target population criteria** as follows:

1. Be determined to have an intellectual or developmental disability,

2. Be 18 years of age or older **,**

3. Meet the Intermediate Care Facility for Individuals with Intellectual Disabilities {**(ICF/IID) level of care as determined by the Functional Needs Assessment by}** **[Section 8.404.1 of CCR 2505-10]**,

4. Does not require twenty-four (24) hour supervision on a continuous basis which is reimbursed as a HCBS-SLS service, and

5. Reside in an eligible HCBS-SLS setting. An SLS setting is the client's residence, which is defined as the following:
   a. A living arrangement, which the client owns, rents or leases in own name,
   b. The home where the client lives with the client's family or legal guardian, or
   c. A living arrangement of no more than three (3) persons receiving HCBS-SLS residing in one household, unless they are all members of the same family.

B. Medicaid Eligibility Groups Served in the Waiver
{Individuals who receive services in this waiver are eligible under the following eligibility groups contained in the state plan:

1. SSI recipients
2. Optional state plan recipients
3. Working individuals with disabilities who buy into Medicaid (BBA working disabled group as provided in §1902(a)(10)(A)(ii)(XIII)) of the Act)
4. Working individuals with disabilities who buy into Medicaid (TWWIIA Basic Coverage Group as provided in §1902(a)(10)(A)(ii)(XV) of the Act)}

C. Other

1. The HCBS-SLS waiver may limit enrollment when utilization of the HCBS-SLS waiver program is projected to exceed the spending authority (8.500.91.F.4).

2. When the HCBS-SLS waiver reaches capacity for enrollment, a client determined eligible for a waiver shall be placed on **a wait list** in accordance with these rules at Section XXXX (8.500.93.A.9)

As openings become available in the HCBS-SLS waiver program in a designated service area, persons shall be considered for services in order of placement on the local CMA's waiting list and with regard to an appropriate match to services and supports. Exceptions to this requirement shall be limited to(8.500.96.F) :

a. **Emergency** situations where the health, safety, and welfare of the person or others is greatly endangered and the emergency cannot be resolved in another way. Emergencies are defined as follows:
   i. **Homeless**: the person does not have a place to live or is in imminent danger of losing his/her place of abode.
   ii. **Abusive or Neglectful Situation**: the person is experiencing ongoing physical, sexual, or emotional abuse or neglect in his/her present living situation and his/her health, safety or well-being are in serious jeopardy.
   iii. **Danger to Others**: the person's behavior or psychiatric condition is such that others in the home are at risk of being hurt by him/her. Sufficient supervision cannot be provided by the current caretaker to ensure the safety of persons in the community.
   iv. **Danger to Self**: a person's medical, psychiatric or behavioral challenges are such that s/he is seriously injuring/harming himself/herself or is in imminent danger of doing so.
   v. The Legislature has **appropriated funds** specific to individuals or to a specific class of persons.
   vi. If an eligible individual is placed on a waiting list for SLS waiver services, a written notice, including information regarding the client appeals process, shall be sent to the individual and/or his/her legal guardian in accordance with the provisions of Section 8.057, et seq.

DEVELOPMENTAL DISABILITIES WAIVER (HCBS-DD) CLIENT ELIGIBILITY-

10.C.C.R. 2505-10, Section **8.500.4**

A. Target Population Criteria (8.500.4.A)

To be eligible for the **HCBS-DD waiver**, an individual shall meet the **target population criteria** as follows:

1. Be determined to have an **intellectual or developmental disability,**

2. Require access to **24-hour services and supports to meet daily living needs** that allow them to live safely and participate in the community. (8.500.2.B),

3 Be 18 years of age or **older,**

4. Meet Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) level of care as determined by the Functional Needs Assessment and defined by **[Section 8.404.1 of CCR 2505-10]**

5. The State limits the number of participants that it serves at any point in time during a waiver year. When the HCBS-DD Waiver reaches capacity for enrollment, a client determined eligible for the waiver shall be eligible for placement on a **wait list in accordance with these rules [at Section 8.500.7]**

6. The state **reserves capacity** for the following purposes:
   a. **Emergency** in which positions are reserved for individuals whose names are on the waiting list and who meet the individuals experiencing a crisis who require immediate assistance in order to ensure their health and safety,
   b. **18-21 Transition** which involves positions are made available for children who age out of foster care, are adopted through the Colorado Child Welfare system, age out of the HCBS-Children's Extensive Supports Waiver, or age out of the HCBS-Children's Habilitation Residential Program Waiver in order to continue access to services without interruption that will allow them to continue living safely in the community,
   c. **Deinstitutionalization** for Nursing Facility, ICF/IID, and State Mental Health Institutes are enrollments that are made available for individuals who have requested to transition from an institutional setting to a community setting. Institutions include skilled nursing facilities, Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IDD), and state mental health institutions, and
   d. **Waitlists.** As vacancies occur in waiver enrollments, the state grants enrollments to the next person on the waiting list based on the order of the selection date. This method ensures comparable access, as the allocation and management of the enrollment is determined based on the Order of Selection Date and not geographical factors.

B. Medicaid Eligibility Groups Served in the Waiver

{Individuals who receive services in this waiver are eligible under the following eligibility groups contained in the state plan:

1. SSI recipients
2. Optional state plan recipients
3. Working individuals with disabilities who buy into Medicaid (BBA working disabled group as provided in §1902(a)(10)(A)(ii)(XIII)) of the Act)
4. Working individuals with disabilities who buy into Medicaid (TWWIIA Basic Coverage Group as provided in §1902(a)(10)(A)(ii)(XV) of the Act)}

C. Other

1. The client shall maintain eligibility by meeting the criteria as set forth in **[Section XXX HCBS Waiver General Client Eligibility Requirements]** and the following:
   a. Resides in a GRSS or IRSS setting. (8.500.4.B.5)

2. When the HCBS-DD Waiver reaches capacity for enrollment, a client determined eligible for the waiver shall be eligible for placement on a wait list in accordance with these rules **[at XXXXX]**.