

Title of Rule: Revision to the Medical Assistance Rule concerning Qualifications of Case Managers, Sections 8.393.1.J.; 8.519.5. and 8.603.9  
Rule Number: MSB 21-08-10-D  
Division / Contact / Phone: Office of Community Living / Victor Robertson / 303-866-6463

## STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

The rules at 8.393.1.J.; 8.519.5.; 8.603.9 outline the education and experience qualifications for case managers in the SEP, HCBS and CCB systems. Currently there is a workforce shortage impacting the system and the department is requesting changes to the qualifications to allow for more avenues to qualify as a case manager, hoping to increase the pool of candidates.

2. An emergency rule-making is imperatively necessary

to comply with state or federal law or federal regulation and/or  
 for the preservation of public health, safety and welfare.

Explain:

Case managers complete activities which are crucial to members' access to services and supports, including eligibility assessment and support planning as well as monitoring to assure quality services and health, safety and welfare of members. A shortage in this workforce presents potential delays in enrollment and receipt of services for our most vulnerable members, increased caseloads, impacting quality of service delivery and risks to health and safety of members.

3. Federal authority for the Rule, if any:

4. State Authority for the Rule:

Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021); Section 25.5-10-209.5, C.R.S.

Initial Review  
Proposed Effective Date

**10/08/21**

Final Adoption  
Emergency Adoption

**10/08/21**

**DOCUMENT #01**

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## **REGULATORY ANALYSIS**

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

This proposed rule will affect state Medicaid providers, including Community Centered Boards, Single Entry Points and CHCBS Case Management Providers. There is no cost associated with the proposed rule. Providers and members will benefit from an improved workforce resulting from promulgation of these rules.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

The proposed rule will likely improve the ability for case management agencies to hire case managers. It is difficult to quantify the impact; however, the rules have incorporated input from stakeholders to remove barriers to recruiting qualified candidates.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

There are no anticipated costs associated with the proposed rules. The rules remove the requirement to request a waiver from the department, so there will be less administrative burden to the Case Management Agencies and the Department.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

There is possible cost of case managers being less qualified and the benefit of a larger candidate pool if the rule is adopted. The costs of inaction are members waiting for assessment/enrollment for services needed to assure health and safety, high caseloads resulting in poor quality of case management services, including monitoring for health and safety, support plan development, and service utilization. There are no identified benefits of inaction.

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

No other methods have been identified.

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6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

No other alternatives were considered; this is the method proposed by the stakeholders.

1 **8.393 FUNCTIONS OF A SINGLE ENTRY POINT AGENCY**

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4 **8.393.1.J. Qualifications of Staff**

5 1. The SEP ~~Agency's supervisor(s) and~~ case manager(s) hired on or after September 10,  
6 2021~~October 8, 2021~~ shall meet minimum standards for HCBS case managers required  
7 in Section 10 CCR 2505-10 8.519.5.B education and/or experience and shall be able to  
8 demonstrate competency in pertinent case management knowledge and skills.

9 ~~a. Case managers shall have at least a bachelor's degree in one of the human~~  
10 ~~behavioral science fields (such as human services, nursing, social work,~~  
11 ~~psychology, etc.).~~

12 ~~b. An individual who does not meet the minimum educational requirement may~~  
13 ~~qualify as a Single Entry Point Agency case manager under the following~~  
14 ~~conditions:~~

15 ~~i. Experience as a caseworker or case manager with the LTSS population~~  
16 ~~in a private or public social services Agency may substitute for the~~  
17 ~~required education on a year for year basis.~~

18 ~~ii. When using a combination of experience and education to qualify, the~~  
19 ~~education must have a strong emphasis in a human behavioral science~~  
20 ~~field.~~

21 ~~iii. The SEP Agency shall request a written waiver from the Department in~~  
22 ~~the event that the potential case manager does not meet minimum~~  
23 ~~educational requirements. A copy of this waiver, if granted, shall be kept~~  
24 ~~in the case manager's personnel file.~~

25 2.e. The case manager must demonstrate competency in each of the following areas:

26 ia. Application of a person-centered approach to planning and practice;

27 ib. Knowledge of and experience working with populations served by the SEP  
28 Agency;

29 ic. Interviewing and assessment skills;

30 id. Knowledge of the policies and procedures regarding public assistance programs;

31 ie. Ability to develop Support Plans and service agreements;

32 if. Knowledge of LTSS and other community resources; and

33 ig. Negotiation, intervention and interpersonal communication skills.

34 3d. The SEP Agency supervisor(s) shall meet all qualifications for case managers and have  
35 a minimum of two years of experience in the field of LTSS.

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**8.519 Case Management**

**8.519.5. Qualifications of Case Managers**

8.519.5.A. All Home and Community-Based (HCBS) case managers must be employed by a certified Case Management Agency.

1. CMAs must maintain verification that employed case managers meet the qualifications set forth in these regulations.

~~8.519.5.B. 8.519.5.B. — minimum qualifications for HCBS Case Managers hired on or after September 10 October 8th, 2021 are:~~

- ~~1. A bachelor’s degree; or~~
- ~~2. Five (5) years of relevant experience in the field of LTSS, which includes Developmental Disabilities; or~~
- ~~3. Some combination of education and relevant experience appropriate to the requirements of the position.~~
- ~~4. Relevant experience is defined as:~~

- ~~a. Experience in one of the following areas: long-term care services and supports, gerontology, physical rehabilitation, disability services, children with special health care needs, behavioral science, special education, public health or non-profit administration, or health/medical services, including working directly with persons with physical, intellectual or developmental disabilities, mental illness, or other vulnerable populations as appropriate to the position being filled; and,~~
- ~~b. Completed coursework and/or experience related to the type of administrative duties performed by case managers may qualify for up to two (2) years of required relevant experience.~~

- ~~1. A bachelor’s degree from an accredited college or university in human services, nursing, psychology, sociology, behavior science, social work, special education, gerontology, public health or non-profit administration; or~~
- ~~2. A bachelor’s degree and a minimum of one (1) year of relevant work experience; or~~
- ~~3. Four (4) years of combined relevant work experience and education in human services, nursing, psychology, sociology, behavior science, social work, special education, gerontology, public health or non-profit administration, where 30 semester and 45 quarter credits equals one year; or,~~
- ~~4. Five (5 ) years of relevant work experience.~~
- ~~5. Relevant work experience is defined as:~~

- ~~—Paid work experience in one of the following areas: long term care services and supports, gerontology, physical rehabilitation, disability services, children with special health care needs, behavioral science, special education, public health or non-profit administration, or health/medical services, including working directly with persons with physical, intellectual or developmental disabilities, mental illness, or other vulnerable populations as appropriate to the position being filled; and,~~
- ~~—Completed coursework and/or paid work experience related to the type of administrative duties performed by case managers may qualify for up to two (2) years of required relevant work experience.~~

~~The minimum requirement for HCBS Case Managers is a bachelor's degree in a human behavioral science or related field of study. If an individual does not meet the minimum requirement, the Case Management Agency shall request a waiver from the Department and demonstrate that the individual meets one of the following:~~

- ~~1. Experience working with long-term services and supports (LTSS) population, in a private or public agency, which can substitute for the required education on a year for year basis; or~~
- ~~2. A combination of LTSS experience and education, demonstrating a strong emphasis in a human behavioral science field.~~
- ~~3. A copy of the waiver request and Department approval shall be kept in the case manager's personnel file.~~

8.519.5.C. Case Managers may not:

1. Be related by blood or marriage to the Client.
2. Be related by blood or marriage to any paid caregiver of the Client.
3. Be financially responsible for the Client.
4. Be the Client's legal guardian, authorized representative, or be empowered to make decisions on the Client's behalf through a power of attorney.
5. Be a provider for the Client, have an interest in, or be employed by a provider for the same Client. Case Managers employed by a Case Management Agency that is operating under an exception approved by the Centers for Medicare and Medicaid Services (CMS) in the approved waiver application are exempt from this requirement.

8.519.5.D. Case Managers must complete the Department prescribed attestation form.

8.519.5.E. Case Managers must complete and document the following trainings within 120 days from the date of hire and prior to providing case management services independently:

1. Department prescribed assessment tool;
2. Service plan development and revision;
3. Referral for services, to include Medicaid and non-Medicaid;
4. Monitoring;
5. Case documentation;
6. Level of Care determination process;
7. Notices and appeals;
8. Incident and critical incident reporting;
9. Waiver requirements and services;
10. Person-centered approaches to planning and practice;

- 1 11. Interviewing and assessment skills; and
- 2 12. Regulations and state statutes for the LTSS program.
- 3 13. Department IMS Documentation
- 4 14. Mandatory Reporting
- 5 15. Participant Directed Training
- 6 16. Disability and Cultural Competency
- 7 17. Any Case Management training required by contract
- 8 8.519.5.F. Case Managers must demonstrate and document competency in the following areas:
  - 9 1. Knowledge and experience working with populations served by the Case Management
  - 10 Agency;
  - 11 2. Knowledge of the statutes, regulations, policies and procedures regarding public
  - 12 assistance programs and the American with Disabilities Act;
  - 13 3. Knowledge of LTSS and other community resources;
  - 14 4. Negotiation, conflict resolution, intervention, cultural and linguistic training, disability
  - 15 cultural competency, and interpersonal communication skills; and
  - 16 5. Knowledge of consumer direction philosophy and programs.
- 17 8.519.5.G. Case Managers shall attend any mandatory training required by the Department.
- 18 8.519.5.H. Case Manager supervisors shall meet the minimum requirements for education and/or
- 19 experience for Case Managers and shall have one year of competency in pertinent case
- 20 management knowledge and skills.
- 21 8.519.5.I. Background checks.
  - 22 1. Prior to employment, all case management staff must have the following minimal
  - 23 background checks and screenings:
    - 24 a. Criminal;
    - 25 b. Medicaid or other federal health programs exclusion list;
    - 26 c. Sex offender registry; and
    - 27 d. Adult protective services data system.
  - 28 2. Background checks must be repeated at minimum every five (5) years with the exception
  - 29 of the adult protective services data system.
  - 30 3. Proof of checks and screenings must be maintained and made available.

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### 8.603 PROGRAM APPROVAL BY THE DEPARTMENT

#### 8.603.9 PERSONNEL AND CONTRACTOR ADMINISTRATION

- A. Community centered boards and program approved service agencies shall establish qualifications for employees and contractors (Host Home and other providers) and maintain records documenting the qualifications and training of employees and contractors who provide services pursuant to these rules and regulations.
- B. The community centered board or service agency may, in accordance with section 27-90-110, C.R.S., conduct background checks and reference checks prior to employing staff providing supports and services and contracting with Host Home and other providers.
- C. The community centered board in its role as support coordinating agency, as defined in section 8.609.1, shall have screening procedures for individual providers who are not agency employees and for other entities providing services and supports.
- D. The community centered board and program approved service agency shall have an organized program of orientation and training of sufficient scope for employees and contractors to carry out their duties and responsibilities efficiently, effectively and competently. The program shall, at a minimum, provide for:
1. Extent and type of training to be provided prior to employees or contractors providing supports and services having unsupervised contact with persons receiving services;
  2. Training related to health, safety and services and supports to be provided within the first ninety (90) days for employees and contractors; and,
  3. Training specific to the individual(s) for whom the employees or contractors will be providing services and supports.
- E. Community centered boards shall ensure that individuals who are hired to fulfill the duties of case management services on or after September 10/October 8, 2021 meet the requirements in Section 10-CGR-2505-10 8.519.5.B. have at least a bachelor's level degree of education, five (5) years of experience in the field of developmental disabilities, or some combination of education and experience appropriate to the requirements of the position.
- F. All employees and contractors, not otherwise authorized by law to administer medication, who assist and/or monitor persons receiving services in the administration of medications or the filling of medication reminder systems shall have passed a competency evaluation offered by an approved training entity, as defined in 6 CCR 1011-1, Chapter 24, *et seq.*