

Title of Rule: Rule Concerning Safety Net Providers Language Update, Section 8.750  
Rule Number: MSB 24-02-13-A  
Division / Contact / Phone: Health Policy Office / Alex Lyons / alex.lyons@state.co.us

## 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).

This rule change is part of the Department's work to align our regulations with House Bill 22-1278. Specifically, this proposed rule will implement terminology changes mandated by HB 22-1278 by shifting Community Mental Health Clinics (CMHCs) to the new Comprehensive Community Behavioral Health and Essential Behavioral Health Safety Net provider designations, and by describing the requirements and covered services for providers participating in the new provider types.

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:

2. Federal authority for the Rule, if any:

3. State Authority for the Rule:

Sections 25.5-1-301-303, C.R.S. (2023);  
Section 27-50-101(7), (11), (13), C.R.S.

Initial Review  
Proposed Effective Date

**04/12/24**  
**06/30/24**

Final Adoption  
Emergency Adoption

**05/10/24**

**DOCUMENT #06**

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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.

Health First Colorado members will benefit from this rule because the organization of their benefits will reflect the state's new behavioral health system. There is likely no class that will bear costs as a result of this proposed rule because it does not alter the scope or amount of benefits available to members.

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

Quantitatively, there will likely not be a significant economic impact or other cost as a result of this proposed rule because it implements terminology changes but does not alter the scope or amount of benefits available to Health First Colorado members. Qualitatively, the rule will benefit members by aligning the organization of the benefit with the state's new behavioral health system.

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.

The cost to the Department from the implementation of this rule is likely to be minimal, as are its effect on state revenues. No other agencies will incur costs as a result of implementation of this rule.

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

The benefit of this proposed rule is that will align the Department's regulations with terminology mandated by state law, while there are no costs associated with implementation of these rule changes. The cost of inaction will be that the Department's rules do not reflect the state's current organization of its behavioral health system. There are no perceived benefits to inaction.

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

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There are likely no less costly or intrusive way to achieve the purpose of the proposed rule because this rule implements terminology changes mandated by HB 22-1278.

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.

The Department did not consider any alternative methods because this rulemaking fulfills the direct legislative mandate in HB 22-1278 to align the Department's regulations with the state's new behavioral health system.

1 **8.300 HOSPITAL SERVICES**

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3 **8.750 ~~COMMUNITY MENTAL HEALTH CENTERS/CLINICS~~ COMPREHENSIVE COMMUNITY**  
4 **BEHAVIORAL HEALTH PROVIDERS AND ESSENTIAL BEHAVIORAL HEALTH SAFETY NET**  
5 **PROVIDERS**

6 **8.750.1 DEFINITIONS**

7 "Comprehensive community behavioral health provider" means a licensed behavioral health entity or  
8 behavioral health provider approved by the Behavioral Health Administration (BHA) to provide care  
9 coordination and behavioral health safety net services, either directly or through formal agreements with  
10 behavioral health providers in the community or region.

11 "Essential Behavioral Health Safety Net Providers" means a licensed behavioral health entity or behavioral  
12 health provider approved by BHA to provide care coordination and at least one of the behavioral health safety  
13 net services listed in 27-50-101(11) C.R.S.

14 ~~Community Mental Health Center/Clinic means either a physical plant or health institution planned,~~  
15 ~~organized, operated, and maintained to provide basic community services or a group of services under~~  
16 ~~unified administration or affiliated with one another.~~

17 ~~Outpatient means a program of care in which the client receives services in a hospital or other health care~~  
18 ~~facility, but does not remain in the facility twenty four hours a day.~~

19 ~~Rehabilitative services means activities and/or services recommended by a physician or other licensed~~  
20 ~~practitioner, for maximum reduction or restoration of a physical or mental disability to the best possible~~  
21 ~~functional level.~~

22 **8.750.2 REQUIREMENTS FOR PARTICIPATION**

23 8.750.2.A. The ~~center/clinic~~ provider must be licensed approved by the ~~Colorado Department of Public~~  
24 ~~Health and Environment (CDPHE)~~ Behavioral Health Administration (BHA).

25 **8.750.3 COVERED SERVICES**

26 ~~8.750.3.A. Services shall include but are not limited to prevention, diagnosis and treatment of emotional~~  
27 ~~or mental disorders. Such services shall be rendered primarily on an outpatient and consultative~~  
28 ~~basis for clients residing in a particular community in or near the facility so situated.~~

29 8.750.3.BA. ~~Community Mental Health Centers/Clinics~~ Comprehensive Community Behavioral Health  
30 providers shall provide medically necessary the covered rehabilitation behavioral health safety net  
31 services in an outpatient setting. Covered services shall include listed in 27-50-101(11) C.R.S.

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34 8.750.3.B Essential Behavioral Health Safety Net providers shall provide at least one of the covered  
35 behavioral health services in an outpatient setting. Covered services shall include those listed in 27-  
36 50-101(13) C.R.S.

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39 2- ~~Group psychotherapy services shall be face to face, or interactive audio (including but not~~  
40 ~~limited to telephone and relay calls), interactive video (including but not limited to interactive~~

1 audiovisual modalities), or interactive data communication (including but not limited to live  
2 chat and excluding text messaging, electronic mail, and facsimile transmission) in  
3 accordance with Section 8.095, services that are insight-oriented, behavior modifying, and  
4 that involve emotional interactions of the group members. Group psychotherapy services  
5 shall assist in providing relief from distress and behavior issues with other clients who have  
6 similar problems and who meet regularly with a practitioner. Any health benefits provided  
7 through interactive audio, interactive video, or interactive data communication must meet the  
8 same standard of care as in-person care

- 9 3. Individual psychotherapy services shall be face-to-face, or interactive audio (including but not  
10 limited to telephone and relay calls), interactive video (including but not limited to interactive  
11 audiovisual modalities), or interactive data communication (including but not limited to live  
12 chat and excluding text messaging, electronic mail, and facsimile transmission) in  
13 accordance with Section 8.095, services that are tailored to address the individual needs of  
14 the client. Services shall be insight-oriented, behavior modifying and/or supportive with the  
15 client in an office or outpatient facility setting. Individual psychotherapy services are limited to  
16 thirty-five visits per State fiscal year. Any health benefits provided through interactive audio,  
17 interactive video, or interactive data communication must meet the same standard of care as  
18 in-person care

19 **8.750.4 REIMBURSEMENT**

20 8.750.4.A. For the purpose of reimbursing Community Mental Health Center and Clinic Comprehensive  
21 Community Behavioral Health providers and Essential Behavioral Health Safety Net providers  
22 providers, the Department shall establish a price schedule annually with the Department of Human  
23 Services in order to reimburse each provider for its actual or reasonable cost of services. must be  
24 reimbursed in accordance with 25.5-4-303 C.R.S.

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