

Title of Rule: Revision to the Medical Assistance Rule concerning Targeted Case Management, Section 8.761  
Rule Number: MSB 20-02-05-A  
Division / Contact / Phone: Office of Community Living / Heather Fladmark / 303-866-5187

## 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).

8.761.2 and 8.761.4 rules have been revised to reflect the change to how case management activities for the Home and Community Based Services for Persons with Developmental Disabilities waiver (DD), Home and Community Based Services- Supported Living Services waiver (SLS), Home and Community Based Services- Children’s Habilitation Residential Program (CHRP) and Home and Community Based Services- Children’s Extensive Support waiver (CES) will be reimbursed July 1, 2020. The finalized Targeted Case Management (TCM) moves to a Per Member Per Month (PMPM) reimbursement for ongoing case management services and differs from the current payment methodology which is a 15-Minute unit with a maximum of 240 total units per member per year. This rule change was prompted by an Office of State Auditor (OSA) recommendation that advised the Department to revise the reimbursement methodology for case management services to better incentivize quality over quantity. The Department committed to the General Assembly and to CCBs to pursue this change. Effective July 1, 2020 TCM activities will be reimbursed as a flat PMPM for active members.

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:

3. Federal authority for the Rule, if any:

42 CFR § 440.169 (b)

4. State Authority for the Rule:

Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2019);

Initial Review	<b>04/10/2020</b>	Final Adoption	<b>05/08/2020</b>
Proposed Effective Date	<b>06/30/2020</b>	Emergency Adoption	

**DOCUMENT #11**

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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.

The Department reimburses Community Centered Boards (CCB) for case management activities for Persons with Developmental Disabilities via Targeted Case Management (TCM). To receive TCM services individuals must meet specific criteria outlined in regulations and be enrolled in the following programs; Home and Community Based for Persons with Developmental Disabilities Waiver (DD), Home and Community Based Services- Supported Living Services Waiver (SLS), Home and Community Based Services- Children's Habilitation Residential Program Waiver (CHRP) and Home and Community Based Services- Children's Extensive Support Waiver (CES).

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

Overall, this regulation will result in similar revenue for CCBs for identical services statewide. The appropriation and expenditures for TCM will remain equivalent, the Department projects there may be some variance (both positive and negative) across individual CCBs depending on their specific business practices. The new per member per month reimbursement methodology will simplify billing for CCB case managers, who must currently track their time in 15-minute intervals. The new methodology is expected allow case managers to spend more time coordinating services for members and less time documenting their work.

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 Department does not anticipate that implementation or enforcement of this rule change will result in any costs to the Department or any other agency. This rule change does not make any changes to the TCM rules or regulation and it is just an adjustment, calculated as a budget-neutral change to the payment methodology within the existing appropriation. It will not affect state revenues.

The Department is able to implement all billing changes associated with the unit conversion within existing funding and staffing.

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

The Department does not incur a cost of implementing the rule since the change is to the reimbursement methodology for targeted case management is budget neutral. However, inaction will not allow the Department to comply with audit findings from the November 2018 CCB OSA performance audit which recommended the Department to make changes to its payment methodology for the CCBs. The current methodology allows for potential accidental waste and abuse.

Implementation of this rule reduces audit risks that exist with the current methodology. The new methodology also will benefit CCBs who will no longer be tasked with tracking and billing TCM in 15-minute units. Implementation of this change will simplify CCBs administrative tasks associated with TCM and allow a greater focus on providing members with quality case management.

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

The reimbursement methodology is believed to be the least intrusive method to simplify billing for CCB case managers who currently must track their time in 15-minute intervals. The new methodology is expected to greatly decrease the amount of time case managers spend recording, billing and reconciling the provision of TCM. Eliminating the annual 240-unit TCM cap will also insure that members receive the TCM services they need and reduce risk of less than sufficient case management after exceeding the limit.

Inaction will not allow the Department to comply with audit findings from the November 2018 CCB OSA performance audit which recommended the Department to make changes to its payment methodology for the CCBs. The current methodology allows for potential accidental waste and abuse. The new reimbursement methodology will improve the billing efficiencies and accuracies for all CCBs which is the least costly reimbursement methodology.

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.

There were no other alternative methods explored by the Department. The Department believes that implementation of this rule, implementing a PMPM

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reimbursement methodology, eliminates the audit risks associated with the current methodology for the Department. The new methodology also will benefit CCBs who do not have to track and bill in 15-minute units. The benefit of implementation greatly outweighs the costs associated with inaction.

1 **8.761 TARGETED CASE MANAGEMENT (TCM) SERVICES FOR PERSONS WITH**  
2 **DEVELOPMENTAL DISABILITIES**

3 .14 Targeted Case Management services for Persons with Developmental Disabilities consists of  
4 facilitating enrollment; locating, coordinating, and monitoring needed developmental disabilities  
5 services; and coordinating with other non-developmental disabilities funded services, such as  
6 medical, social, educational, and other services to ensure non-duplication of services and monitor  
7 the effective and efficient provision of services across multiple funding sources. Targeted case  
8 management services includes the following activities:

9 a. Comprehensive assessment and periodic reassessment of individual needs to determine  
10 the need for any medical, educational, social or other services and completed annually or  
11 when the Client experiences significant change in need or in level of support. These  
12 assessment activities include:

- 13 1. Taking Client history; and  
14 2. Identifying the Client's needs, completing related documentation, and gathering  
15 information from other sources such as family members, medical providers,  
16 social workers, and educators as necessary, to form a complete assessment of  
17 the Client.

18 b. Development and periodic revision of a specific care plan that:

- 19 1. Is based on the information collected through the assessment;  
20 2. Specifies the goals and actions to address the medical, social, educational, and  
21 other services needed by the Client;  
22 3. Includes activities such as ensuring the active participation of the Client, and  
23 working with the Client (or the Client representative as defined in Section  
24 8.500.1) and others to develop those goals; and  
25 4. Identifies a course of action to respond to the assessed needs of the Client.

26 c. Referral and related activities to help a Client obtain needed services including activities  
27 that help link a Client with:

- 28 1. Medical, social, educational providers; or  
29 2. Other programs and services including making referrals to providers for needed  
30 services and scheduling appointments, as needed.

31 d. Monitoring and follow-up includes activities that are necessary to ensure the care plan is  
32 implemented and adequately addresses the Client's needs. Monitoring and follow up  
33 actions shall:

- 34 1. Be performed when necessary to address health and safety and services in the  
35 care plan;  
36 2. Include activities to ensure:  
37 A. Services are being furnished in accordance with the Client's care plan;

- 1 B. Services in the care plan are adequate; and
- 2 C. Necessary adjustments in the care plan and service arrangements with  
3 providers are made if the needs of the Client have changed;
- 4 3. Include direct contact and observation with the Client in a place where services  
5 are delivered to a Client in accordance with the following frequency:
- 6 A. Face to face monitoring shall be completed for a Client enrolled in  
7 HCBS-DD at least once per quarter;
- 8 B. Face to face monitoring shall be completed for a Client enrolled in  
9 HCBS-SLS at least once per quarter;
- 10 C. Face to face monitoring shall be completed for a Client in HCBS-CES at  
11 least once per quarter; and
- 12 D. Face to face monitoring shall be completed at least once every six  
13 months for children in Early Intervention Services.
- 14 .15 All case documentation must be entered into the Department's IMS within five (5) business days  
15 from the date of activity.

#### 16 8.761.2 DETERMINATION OF CLIENT ELIGIBILITY

- 17 .21 To receive targeted case management services individuals must meet the following criteria:
- 18 a. Be determined eligible for Medicaid by the County Department of Social/Human Services  
19 in the county in which the person resides;
- 20 b. Be determined by the designated Community Centered Board to have a developmental  
21 disability or developmental delay; and
- 22 c. Be actively enrolled in one of the following programs:-
- 23 1. Home and Community Based Services for Persons with Developmental  
24 Disabilities waiver (HCBS-DD);
- 25 2. Home and Community Based Services - Supported Living Services waiver  
26 (HCBS-SLS);
- 27 3. Home and Community Based Services- Children's Habilitation Residential  
28 Program (HCBS-CHRP)
- 29 3. Home and Community Based Services - Children's Extensive Support waiver  
30 (HCBS-CES); or
- 31 4. Early Intervention Services (EI).
- 32 .22 The specific programs listed in Section ~~8.761.21 (c)(1)~~8.761.21.c.1 through ~~(4)~~ are the only  
33 programs which are eligible for targeted case management services.

#### 34 8.761.3 PROVIDER ELIGIBILITY

1 .31 Only certified Early Intervention Services may be reimbursed for targeted case management  
 2 services for persons enrolled in Early Intervention Services pursuant to 12 CCR 2509-10, [Section](#)  
 3 [-7.913](#).

4 .32 Only case management agencies certified by the Department pursuant to Sections [8.519](#) through  
 5 [8.519.23](#) may provide case management for persons enrolled in the Home and Community  
 6 Based Services outlined in Section [8.503](#) Home and Community Based Services for Children's  
 7 Extensive Support (HCBS-CES) Waiver, [8.508 Home and Community Based Services for](#)  
 8 [Children's Habilitation Residential Program \(HCBS-CHRP\)](#), [8.500 Home and Community Based](#)  
 9 [Services for the Developmentally Disabled \(HCBS-DD\) Waiver](#), and [8.500.90 Home and](#)  
 10 [Community Based Services for Supported Living Services \(HCBS-SLS\) Waiver](#) *et seq.*

#### 11 **8.761.4 REIMBURSEMENT**

12 .41 Claims are reimbursable only when supported by the following documentation:

- 13 a. The name of the Client;
- 14 b. The date of the activity;
- 15 c. The nature of the activity including whether it is direct or indirect contact with the Client;
- 16 d. The content of the activity including the relevant observations, assessments, findings;
- 17 e. Outcomes achieved, and as appropriate, follow up action;
- 18 f. **For EI services, T**he total number of units associated with the activity; and
- 19 g. For HCBS waiver programs, documentation required under Sections 8.519 and 8.760.

20 .42 TCM providers shall record what documentation exists in the log notes and enter it into the state  
 21 data system as required by the Department.

22 .43 Claims [related to EI](#) for travel time to and from a TCM activity are reimbursable at the same unit  
 23 rate as TCM services. The time claimed for travel shall be documented separately from the time  
 24 claimed for the TCM activity.

26 .44 Reimbursement rates shall be published prior to their effective date in accordance with Federal  
 27 requirements at 42 C.F.R. § 447.205 and shall be based upon a market-based [rate](#). [EI shall](#)  
 28 [continue to utilize the](#) -rate with a unit of service equal to fifteen (15) minutes according to the  
 29 State's approved fee schedule. [EI TCM, is limited to 240 units per Client per state fiscal year.](#)

30 .45 TCM services may not be claimed prior to the first day of enrollment into an eligible program nor  
 31 prior to the actual date of eligibility for Medicaid benefits.

32 .46 ~~TCM is limited to 60 units per Client for State Fiscal Year 2011-12 (April 1 to June 30, 2012).~~  
 33 ~~Thereafter, TCM is limited to 240 units per Client per state fiscal year for HCBS-DD, HCBS-CES,~~  
 34 ~~HCBS-CHRP and HCBS-SLS are to be reimbursed based on the Department's TCM Fee~~  
 35 ~~Schedule.~~ -

#### 36 **8.761.5 EXCLUSIONS**

1 .51 Case management services provided to any individuals enrolled in the following programs are not  
2 billable as ~~T~~targeted ~~C~~case ~~M~~management services for persons with developmental disabilities  
3 as specified in ~~S~~section 8.760:

- 4 a. Persons enrolled in a Home and Community Based Services waiver not included as an  
5 eligible HCBS service as described in ~~40-CCR-2505-10~~ Section 8.761.21\_c.
- 6 b. Persons residing in a Class I nursing facility.
- 7 c. Persons residing in an Intermediate Care Facility for the Intellectually Disabled (ICF-ID).

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