

Title of Rule: Revision to the Medical Assistance Act Rule concerning Pediatric Long-Term Home Health Prior Authorization Exceptions, Section 8.520.8.C  
Rule Number: MSB 22-01-19-B  
Division / Contact / Phone: Health Programs Office / Russ Zigler / 303-866-5927

## 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 proposed rule removes prior authorization requirements for Certified Nurse Assistant services, physical therapy services, occupational therapy services, and speech-language therapy services in relation to the reinstatement of pediatric long-term home health prior authorization, which is currently being implemented in accordance with the tiered schedule established by rule number MSB 21-11-17-B adopted at the December 2021 Medical Services Board meeting.

The Department recently met with Health First Colorado (Colorado's Medicaid program) members and families, providers, and other stakeholders about concerns related to the pediatric long-term home health (LTHH) benefit prior authorization request (PAR) process. Based on these conversations, the Department has made the decision to temporarily pause the CNA, physical therapy, occupational therapy, and speech-language pathology pediatric LTHH PAR process effective November 1, 2021 until June 1, 2022, at the earliest. It is important to note that only the PARs related to the CNA, physical therapy, occupational therapy, and speech-language pathology pediatric LTHH benefit will be paused. Pediatric LTHH Skilled Nursing Visits, and Private Duty Nursing (PDN) services will continue to require a PAR. Benefits will be reinstated back to November 1, 2021 for Health First Colorado members whose PARs were denied during this time, so there is no gap in services or payment for services.

The Department understands the stakeholders' concerns and wants to hear more perspectives to inform the exploration of long-term solutions to address the issue within state and federal guidelines. Therefore, the Department will use the temporary pause to collaborate with stakeholders to identify and address issues. The Department will reach out to stakeholders about upcoming engagement opportunities in the coming weeks.

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:

The proposed rule is imperatively necessary to address concerns raised by stakeholders concerning the tiered prior authorization reinstatement for pediatric long-term home health services in Section 8.520.8.C.1, specifically related to Certified Nurse Assistant services,

Initial Review

Proposed Effective Date

**02/11/22**

Final Adoption

Emergency Adoption

**02/11/22**

**DOCUMENT #11**

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physical therapy services, occupational therapy services, and speech-language pathology services. The suspension of prior authorization requirements for said services is imperatively necessary for the preservation of public health, safety, and welfare.

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);

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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.

Members receiving pediatric long-term home health services rendered by Certified Nurse Assistants, and Certified Nurse Assistant service providers, are impacted by this rule. Members receiving pediatric long-term home health physical therapy, occupational therapy, and speech-language pathology, and the providers of such services, are also affected by the proposed rule.

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 remove the requirement that Certified Nurse Assistant services, physical therapy services, occupational therapy services, and speech-language pathology services be prior authorized in accordance with the tiered reinstatement of long-term home health prior authorizations established in Section 8.520.8.C.1.

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.

Implementing and enforcing this rule change could result in an increase in Medicaid spending on pediatric long-term home health. The Department anticipates that expenditure for services delivered by Certified Nurse Assistants, and for occupational therapy services, physical therapy services, and speech-language pathology services, would remain in line with spending for the last two years when all prior authorizations for long-term home health were suspended.

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

The benefit of the proposed rule is providing the Department and stakeholders time to discuss long-term solutions concerning prior authorization of pediatric long-term home health services related to Certified Nurse Assistants, physical therapy, occupational therapy, and speech-language therapy. The cost of the proposed rule is suspension of prior authorization requirements for such services. The cost of inaction would be continuing the tiered reinstatement of prior authorization of such

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services while the Department is actively working with stakeholders to discuss the long-term solutions. There are no benefits to inaction.

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

There are no less costly or less intrusive methods for pausing the prior authorization of the services at issue in order to provide the Department and stakeholders time to discuss long-term solutions.

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 are no alternative methods for pausing the prior authorization of the services at issue in order to provide the Department and stakeholders time to discuss long-term solutions

1 **8.520 HOME HEALTH SERVICES**

2  
3 **[ONLY SECTION 8.520.8.C IS AFFECTED BY THIS RULE CHANGE]**

4 **8.520.8.C. Long-Term Home Health**

- 5 1. Beginning November 1, 2021, providers must submit a prior authorization request (PAR)  
6 for all new long-term pediatric Home Health Services under Section 8.017.E, except for  
7 Certified Nurse Assistant services, physical therapy services, occupational therapy  
8 services, and speech-language pathology services. For members currently receiving  
9 long-term pediatric Home Health Services initiated prior to November 1, 2021, providers  
10 must submit a PAR in accordance with the following schedule:

- 11 ~~1a.~~ Ten percent (10%) of PARs must be submitted by November 30, 2021;
- 12 ~~2b.~~ An additional 10% of PARs must be submitted by December 31, 2021;
- 13 ~~3c.~~ An additional 10% of PARs must be submitted by January 31, 2022;
- 14 ~~4d.~~ An additional 10% of PARs must be submitted by February 28, 2022;
- 15 ~~5e.~~ An additional 10% of PARs must be submitted by March 31, 2022;
- 16 ~~6f.~~ An additional 10% of PARs must be submitted by April 30, 2022;
- 17 ~~7g.~~ An additional 10% of PARs must be submitted by May 31, 2022;
- 18 ~~8h.~~ An additional 10% of PARs must be submitted by June 30, 2022;
- 19 ~~9i.~~ An additional 10% of PARs must be submitted by July 31, 2022;
- 20 ~~10j.~~ The final 10% of PARs, with a total of 100% of PARs initiated prior to November  
21 1, 2021, must be submitted by August 31, 2022.

22 **[ONLY SECTION 8.520.8.C IS AFFECTED BY THIS RULE CHANGE]**