

Stakeholder Comment Summary

MSB 18-09-18-A

Revision to the Medical Assistance Long-Term Services and Supports Rule Concerning Consumer Directed Attendant Support Services, Section 8.510

ATTACH THE STAKEHOLDER LOG.

COMMENTS WERE RECEIVED FROM STAKEHOLDERS ON THE PROPOSED RULE:

YES

No

IF YES, PLEASE SUMMARIZE.

DEPARTMENT STAFF HAVE CONSULTED WITH THE PARTICIPANT DIRECTED PROGRAMS POLICY COLLABORATIVE (PDPPC) STAKEHOLDER GROUP REGARDING THE CHANGES TO THIS RULE. PDPPC MEMBERSHIP CONSISTS OF STAKEHOLDERS WHO ARE COMMITTED TO OFFERING CONSUMER DIRECTED SERVICE OPTIONS TO CLIENTS IN COLORADO. INITIAL RULE CHANGES WERE DEVELOPED IN COLLABORATION WITH PDPPC MEMBERS DURING SUBCOMMITTEE MEETINGS HELD ON APRIL 19, MAY 29, OCTOBER 4, OCTOBER 29 AND NOVEMBER 30, 2018. THE LARGE PDPPC STAKEHOLDER MEETING MEMBERS WERE PROVIDED WITH THE DRAFT RULE CHANGE ON NOVEMBER 28 AND DECEMBER 19, 2018. PDPPC MEMBERS WERE PROVIDED THE FINAL DRAFT RULE ON JANUARY 11, 2019 AND REFERRED TO PROVIDE ADDITIONAL COMMENTS OR SUGGESTIONS TO THE FINAL DRAFT OF THE RULE BY JANUARY 30, 2019

DEPARTMENT STAFF WORKED COLLABORATIVELY WITH MEMBERS OF THE PDPPC TO AMEND THIS RULE. ISSUES RAISED FROM THE GROUP INCLUDED: ALLOWING CDASS TO RESUME ON A EXPEDITED SCHEDULE FOLLOWING A MEMBERS GAP IN FINANCIAL ELIGIBILITY AND ALLOWING A MEMBER THE OPPORTUNITY TO UTILIZE CDASS AGAIN FOLLOWING TERMINATION FROM THE SERVICE. THE DEPARTMENT MODIFIED THE RULE REVISION TO INCORPORATE THESE SUGGESTIONS. THE DEPARTMENT RECEIVED SUGGESTIONS TO LOWER THE CDASS ATTENDANT AGE

REQUIREMENT TO 16 FOR ATTENDANTS PROVIDING HOMEMAKER SERVICES. THE DEPARTMENT CONTINUES TO REVIEW THIS OPTION TO DETERMINE BEST PRACTICES FOR ATTENDANT REQUIREMENTS AND WILL REVIEW THIS FOR FUTURE RULE REVISIONS.

FINANCIAL MANAGEMENT SERVICE (FMS) VENDORS REQUESTED CLARIFICATION ON WHETHER REMOVING A REQUIREMENT FOR FMS VENDORS TO HAVE A COPY OF THE CLIENT INITIAL AND REVISED ATTENDANT SUPPORT MANAGEMENT PLANS WOULD CREATE ANY ISSUES WITH AUDITING COMPLETED BY THE DEPARTMENT.

DEPARTMENT STAFF CLARIFIED THAT THE CASE MANAGEMENT AGENCY WILL MAINTAIN COPIES OF THE ATTENDANT SUPPORT MANAGEMENT PLAN FOR ANY NEEDED AUDITING.

DEPARTMENT STAFF WORKED WITH PDPPC MEMBERS TO DETERMINE AN APPROPRIATE MONTHLY CDASS UTILIZATION LIMIT FOR PARTICIPANTS. A DETERMINATION WAS MADE TO LIMIT CDASS MONTHLY UTILIZATION TO ALLOW A MEMBER TO UTILIZE AN ADDITIONAL 29% OVER THE MEMBERS MONTHLY ALLOCATION. SOME MEMBERS OF PDPPC EXPRESSED SUPPORT FOR THIS INITIATIVE WHILE OTHERS EXPRESSED CONCERNS. SUPPORT FOR THE INITIATIVE OUTLINED THAT THE MEASURE WOULD HELP MEMBERS BUDGET FOR SERVICES AND LIMIT A MEMBER FROM DEPLETING FUNDING PREMATURELY WHICH CAN CAUSE ACCESS TO CARE CONCERNS. MEMBERS EXPRESSED CONCERN ON LIMITING THEIR ABILITY TO ACCESS ADDITIONAL SERVICES THAT EXCEED 29% OR MORE OF THEIR MONTHLY ALLOCATION WITHOUT RECEIVING APPROVAL THROUGH THEIR CASE MANAGER TO REVISE THE SERVICE AUTHORIZATION. DEPARTMENT STAFF UNDERSTAND MEMBER CONCERNS AND HAVE SET A LIMIT AT 29% TO SUPPORT MEMBERS IN THEIR ABILITY TO BALANCE VARYING NEEDS WHILE ALSO PREVENTING A DEPLETION OF THE MEMBERS BUDGET THAT CAN LIMIT ACCESS TO CARE.

Title of Rule: Revision to the Medical Assistance Long-Term Services and Supports Rule Concerning Consumer Directed Attendant Support Services, Section 8.510
Rule Number: MSB 18-09-18-A
Division / Contact / Phone: Long Term Services and Supports / Rhyann Lubitz / (303) 866-3641

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).

With this rulemaking, the Department is clarifying roles and responsibilities of Case Management Agencies, clients, Authorized Representatives and Financial Management Service vendors. The rule change identifies additional services which are currently performed as health maintenance activities in Consumer Directed Attendant Support Services (CDASS). The Department is also identifying services that may be participant-directed under the Home and Community Based Supported Living Services (HCBS-SLS) waiver. The Department is identifying service limitations for attendant support to ensure participants who are directing and managing their own care are aware when attendant services cannot be performed for reimbursement. The Department is also implementing a monthly service utilization limit to allow a participant flexibility in managing their services while creating measures to limit premature depletion of funds that can create a hardship in receiving future services.

This rule change is necessary to ensure the rule encompasses services allowed in CDASS as well as roles and responsibilities of all entities involved with CDASS.

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 U.S.C. §1396n(c)

4. State Authority for the Rule:

Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2018);
C.R.S. 25.5-6-1101

Initial Review

05/10/19 Final Adoption

06/14/19

Proposed Effective Date

07/30/19 Emergency Adoption

DOCUMENT # 12

Title of Rule: Revision to the Medical Assistance Long-Term Services and Supports Rule Concerning Consumer Directed Attendant Support Services, Section 8.510

Rule Number: MSB 18-09-18-A

Division / Contact / Phone: Long Term Services and Supports / Rhyann Lubitz / (303) 866-3641

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.

Individuals and organizations affected by the proposed rule will be clients, Case Managers, and Financial Management Services vendors. Clients utilizing CDASS will continue to receive services with increased support and clarity on roles and responsibilities. Clients will continue to have the flexibility to direct and manage their CDASS monthly Allocation with limitations on expenditures that exceed the monthly Allocation. The Department contracts with Financial Management Service (FMS) vendors to manage payment for services for CDASS.

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

In terms of qualitative impact, the proposed rule will bring increased structure to the CDASS delivery option and prevent premature depletion of funds from a client's annual Allocation that can impact the ability to receive Attendant services.

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 probable additional costs to the Department for implementation and enforcement of this proposed rule. The Department contracts with FMS vendors, Case Management Agencies and a Training and Operations Vendor to implement changes to CDASS.

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

There are numerous benefits of the proposed rule. The proposed changes bring clarity to the roles of Case Management Agencies, clients and Authorized Representatives. The rule also provides additional clarification on health maintenance tasks performed by an Attendant. The Department is making these clarifications to benefit our CDASS clients and decrease confusion or risk of error. Changes to the rule to prevent premature depletion of funds from client service utilization is necessary to ensure access to services and sound stewardship of

Title of Rule: Revision to the Medical Assistance Long-Term Services and Supports Rule Concerning Consumer Directed Attendant Support Services, Section 8.510

Rule Number: MSB 18-09-18-A

Division / Contact / Phone: Long Term Services and Supports / Rhyann Lubitz / (303) 866-3641

resources. There are no costs associated with the proposed rule, and there are no benefits of inaction.

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

The Department will not experience costs associated with this rule change. There are no less intrusive methods to carry out these changes, because alternative methods would have resulted in increased costs or decreased client control over services.

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 considered utilizing technical assistance with Case Management Agencies and training to clarify roles and responsibilities. Ultimately, it was determined that having clearly defined rules for allowable services and case management tasks is preferred to ensure consistent performance throughout Colorado.

1 **h8.510 CONSUMER DIRECTED ATTENDANT SUPPORT SERVICES**

2 **8.510.1 DEFINITIONS**

3 A. Adaptive Equipment means ~~one or more a~~ device(s) ~~that is~~ used to assist with
4 completing activities of daily living.

5 B. Allocation means the funds determined by the ~~case manager~~ Case Manager in
6 conjunction with the client and made available by the Department through
7 the Financial Management Service (FMS) vendor to clients receiving for a Attendant
8 support services available in the Consumer Directed Attendant Support Services
9 (CDASS) delivery option and administered by the Financial Management Services (FMS)
10 authorized for attendant support services, and administrative fees paid to the FMS.

11 C. Assessment means a comprehensive evaluation with the client seeking services and
12 appropriate collaterals (such as family members, advocates, friends and/or caregivers)
13 conducted by the Case Manager, with supporting diagnostic information from the client's
14 medical provider to determine the client's level of functioning, service needs, available
15 resources, and potential funding sources. Case Managers shall use the Department's
16 prescribed tool to complete assessments.

17 G-D. _____ Attendant means the individual who meets qualifications in 10 CCR 2505-10, §
18 8.510.8 who provides CDASS as determined by described in 10 CCR 2505-10, §
19 8.510.3 and is hired by the client or Authorized Representative or by through the
20 contracted FMS vendor.

21 D-E. _____ Attendant Support Management Plan (ASMP) means the documented plan
22 described in at 10 CCR 2505-10, § 8.510.5, for detailing management of Attendant
23 support needs through CDASS. clients to manage their care as determined by 10 CCR
24 2505-10, § 8.510.4 which is reviewed and approved by the Case Manager.

25 E-F. _____ Authorized Representative (AR) means an individual designated by the client or
26 the client's legal guardian, if appropriate applicable, who has the judgment and ability to
27 direct CDASS on a client's behalf and meets the qualifications as defined contained in at
28 10 CCR 2505-10, § 8.510.6 and § 8.510.7.

29 Benefits Utilization System (BUS) means the web based data system maintained by the
30 Department for recording case management activities associated with Long Term
31 Services and Supports (LTSS).

32 F-G. _____ Case Management Agency (CMA) means a public or private entity that meets all
33 applicable state and federal requirements and is certified by the Department to provide
34 case management services for Home and Community Based Services waivers pursuant
35 to §§ 25.5-10-209.5 and 25.5-6--106, C.R.S.-, and has a current provider participation
36 agreement with the Department. Department approved agency within a designated
37 service area where an applicant or client can obtain Long Term Services and Supports
38 case management services.

~~G.H.~~ Case Manager means an individual employed by a Case Management Agency who is qualified to perform the following case management activities: determination of an individual client's functional eligibility for one or more Home and Community Based Services (HCBS) waivers, development and implementation of an individualized and person-centered care plan for the client, coordination and monitoring of HCBS waiver services delivery, evaluation of service effectiveness, and periodic reassessment of client needs. ~~Case Manager means an individual who meets the qualifications to perform case management activities by contract with the Department.~~

~~I.~~ Consumer-Directed Attendant Support Services (CDASS) means the service delivery option for services that assist that empowers an individual clients to direct their care and services to assist them in accomplishing activities of daily living when included as a waiver benefit. CDASS benefits that may include assistance with health maintenance, personal care, and homemaker activities.

~~J.~~ CDASS Certification Period Allocation means the funds determined by the Case Manager and made available by the Department for Attendant services for the date span the client is approved to receive CDASS within the annual certification period.

~~H.K.~~ CDASS Task Worksheet: A tool used by a Case Manager to indicate the number of hours of assistance a client needs for each covered CDASS personal care services, homemaker services, and health maintenance activities.

~~I.L.~~ CDASS Training means the required CDASS training, including a final, and comprehensive assessment, provided by the Training and Operations Vendor Department or its designee to a client or Authorized Representative/AR who is interested in CDASS.

~~Continued Stay Review (CSR) means a periodic face to face review of a client's condition and service needs by a Case Manager to determine a client's continued eligibility for Long Term Services and Supports in the client's residence.~~

~~J.~~ Cost Containment means the cost of providing care in the community is 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.

~~M.~~ Department means the Colorado Department of Health Care Policy and Financing, the Single State Medicaid Agency.

~~K.N.~~ Family Member means any person related to the client by blood, marriage, adoption, or common law as determined by a court of law.

~~L.O.~~ Financial Eligibility means the Health First Colorado financial eligibility criteria based on client income and resources. a client qualifies for Medicaid based on the applicable eligibility category and the client's individual financial circumstances, including, but not limited to, income and resources.

1 ~~M.P.~~ Financial Management Services (FMS) vendor means an entity contracted with
 2 the Department and chosen by the client or Authorized Representative to complete
 3 employment-related functions for CDASS ~~A~~attendants and to track and report on
 4 individual client CDASS Aallocations ~~for CDASS~~.

5 ~~N.Q.~~ Fiscal/Employer Agent (F/EA) is an FMS model where the FMS is an agent of the
 6 client as the employer, provides FMS by performing payroll and administrative functions
 7 for clients receiving CDASS benefits. The program participant or representative is the
 8 common law employer of workers hired, trained and managed by the participant or
 9 representative. The F/EA pays workers Attendants for CDASS services and vendors
 10 maintains workers' compensation policies on the participant's client-employer's behalf.
 11 The F/EA withholds, calculates, deposits and files withheld Federal Income Tax and both
 12 client-employer and Attendant-employee Social Security and Medicare taxes.

13 ~~Q.R.~~ Functional Eligibility means the physical and cognitive functioning criteria a client
 14 must meet to qualify for a Medicaid waiver program, as determined by the Department's
 15 functional eligibility assessment tool. means an applicant or client meets the criteria for
 16 Long Term Services and Supports as determined by the Department's prescribed
 17 instrument as defined in 10 CCR 2505-10, § 8.401.

18 ~~Functional Needs Assessment means a component of the Assessment process which includes a~~
 19 ~~comprehensive evaluation using the ULTC (Uniform Long Term Care) Instrument to determine if~~
 20 ~~the client meets the appropriate Level of Care (LOC).~~

21 ~~P.S.~~ Home and Community-Based Services (HCBS) means a variety of supportive
 22 services delivered in conjunction with Colorado Medicaid Waivers to clients in community
 23 settings. These services are designed to help older persons and persons with disabilities
 24 to remain living live in the community at home.

25 ~~Q.T.~~ Inappropriate Behavior means offensive behavior toward Attendants, Case
 26 Managers, the Training and Operations Vendor or the FMS, and which includes:
 27 documented verbal, sexual and/or physical abuse. Verbal abuse may include threats,
 28 insults or offensive language ~~over a period of time.~~

29 ~~R.U.~~ Licensed Medical Professional means a person who has completed a 2-year or
 30 longer program leading to an academic degree or certificate in a medically related
 31 profession. This is limited to those who possess the following medical licenses: physician,
 32 physician assistant and nurse the primary care provider of the client, who possess~~es~~ one
 33 of the following licenses: Physician (MD/DO), Physician Assistant (PA) and Advanced
 34 Practicing Nurse (APN), as governed by the Colorado Medical Practice Act and the
 35 Colorado Nurse Practice Act.

36 ~~Long Term Services and Supports (LTSS) means Nursing Facilities, Intermediate Care Facilities~~
 37 ~~for the Intellectually/Developmentally Disabled (ICF/IDD), Home and Community Based~~
 38 ~~Services (HCBS), Long Term Home Health or the Program of All-inclusive Care for the~~
 39 ~~Elderly (PACE), Swing Bed and Hospital Back Up Program (HBU).~~

~~Long Term Services and Supports Certification Period means the designated period of time in which a client is functionally eligible to receive Long Term Services and Supports not to exceed one year.~~

~~S.V. _____ Prior Authorization Request (PAR) means the Department-prescribed form process that used to authorize HCBS waiver services before they are provided to the client. assures the provider that the service is medically necessary and a Colorado Medical Assistance Program benefit.~~

~~T.W. _____ Notification means the routine methods in which thea communication from the Department or its designee conveys with information about CDASS. Methods-Notification methods include but are not limited to announcements via the Department's CDASS web site, client account statements, Case Manager contact, or FMS vendor contact.~~

~~Reassessment means a review of the Assessment, to determine and document a change in the client's condition and/or client's service needs.~~

~~U.X. _____ Stable Health means a medically predictable progression or variation of disability or illness.~~

~~V.Y. _____ Training and Operations Vendor means the organization contracted by the Department to provide training and customer service for self-directed service delivery options to CDASS cClients, Aauthorized Rrepresentatives, and Case Managers. provide training to case managers on participant direction, and provide customer service related to participant direction.~~

8.510.2 ELIGIBILITY

8.510.2.A. To be eligible for the CDASS delivery option, at the client shall meet the following eligibility criteria: n individual shall meet all of the following:

1. Choose the CDASS delivery service delivery option.
- ~~2. Meet medical assistance Financial Eligibility requirements~~
- ~~3. Meet Long Term Services and Supports Functional Eligibility requirements~~
- ~~4. Be Meet HCBS waiver functional and financial-eligible for an HCBS Waiver with the CDASS-eligibility requirements.~~
- ~~5. Demonstrate a current need for covered Attendant support services.~~
- ~~6. Document a pattern of stable client health that necessitates indicating appropriateness for community-based services and a predictable pattern of CDASS Attendant support and appropriateness of CDASS services~~
- ~~7. Provide a statement, at an interval determined by the Department, from the client's primary care physician, physician assistant, or advanced practice nurse.~~

attesting to the client's ability to direct ~~his or her~~their care with sound judgment or a required AR with the ability to direct the care on the client's behalf.

68. Complete all aspects of the ASMP and training and demonstrate the ability to direct care or have care directed by an AR.

a. Client training obligations

i.

a. Client's and AR's who have received training through the Training and Operations Vendor in the past two years and have utilized CDASS in the previous six months may receive a modified training to restart CDASS following an episode of closure. -The Case Manager will review the allocation and attendant management for the client's previous service utilization and consult with the Department to determine whether full retraining is required, or an abbreviated training based on history of managing allocation and services is needed.

ii. A client who was terminated from CDASS due to a Medicaid financial eligibility denial that has been resolved may resume CDASS without attending training if they had received CDASS in the previous six months.

8.510.3 CDASS COVERED SERVICES

8.510.3.A. Covered services shall be for the benefit of only the client and not for the benefit of other persons. ~~living in the home.~~

8.510.3.B. Services include:

1. Homemaker: General household activities provided by an Attendant in a client's home to maintain a healthy and safe environment for the client. Homemaker activities shall be ~~applied only to~~provided only in the ~~permanent primary~~ living space of the client and multiple Attendants may not be reimbursed for duplicating ~~household homemaker~~ tasks. Tasks may include the following activities or teaching the following activities:

- a. ~~Routine light h~~Housekeeping, such as: dusting, vacuuming, mopping, and cleaning bathroom and kitchen areas;
- b. Meal preparation;
- c. Dishwashing;
- d. Bed making;

- 1 e. Laundry;
- 2 f. Shopping for necessary items to meet basic household needs.
- 3
- 4
- 5 2. Personal Care: Services furnished to an eligible client in the community or in
- 6 the client's home to meet the client's physical, maintenance, and supportive
- 7 needs. Including Personal care tasks may include:
- 8 a. Eating/feeding, which includes assistance with eating by mouth using
- 9 common eating utensils such as spoons, forks, knives, and straws;
- 10 b. Respiratory assistance with cleaning or changing oxygen equipment
- 11 tubes, filling ~~the~~ distilled water reservoirs, and moving ~~the a~~ cannula or
- 12 mask from or to the client's face;
- 13 c. Preventive sSkin care ~~preventative in nature~~ when skin is unbroken;
 14 including the application of non-medicated/non-prescription lotions,
 15 and/or sprays, and/or solutions, ~~rubbing of reddened areas, and routine~~
 16 foot checks for people with diabetes and monitoring for skin changes.
- 17 d. Bladder/Bowel Care:
- 18 i) Assisting client to and from the bathroom;
- 19 ii) Assistance with bed pans, urinals, and commodes;
- 20 iii) Changing ~~of~~ incontinence clothing or pads;
- 21 iv) Emptying Foley or suprapubic catheter bags, but only if there is
- 22 no disruption of the closed system;
- 23 v) Emptying ostomy bags;
- 24 vi) Perineal care.
- 25 e. Personal hygiene:
- 26 i) Bathing, including washing, and shampooing; ~~and shaving~~
- 27 ii) Grooming;
- 28 iii) Shaving with an electric or safety razor;
- 29 ~~iii~~iv) Combing and styling ~~of~~ hair;

- 1 iv) ~~Trimming, cutting, and s~~Filing and soaking ~~of~~ nails;
- 2
- 3 vi) Basic oral hygiene and denture care.
- 4 f. Dressing assistance with ordinary clothing and the application of non-
- 5 prescription support stockings, braces and splints; and the application of
- 6 orthopedic devices such as splints and braces or artificial limbs when the
- 7 client is able to assist or direct.
- 8 g. Transferring a client when the client has sufficient balance and strength
- 9 to reliably stand and pivot and assist with the transfer. Adaptive and
- 10 safety equipment may be used in transfers, provided that the client and
- 11 Attendant are fully trained in the use of the equipment and the client can
- 12 direct and assist with the transfer.~~assist with and can direct the transfer~~
- 13 h. ~~Assistance with m~~Mobility assistance when the client has the ability to
- 14 reliably balance and bear weight or when the client is independent with
- 15 an assistive device.
- 16 i. Positioning when the client is able to verbally or non-verbally identify
- 17 when the r position needs to be changed, including simple alignment in a
- 18 bed, wheelchair, or other furniture.
- 19 j. ~~Assistance with self-administered Medication~~ Reminders -when the
- 20 medications have been preselected by the client, a Ffamily Member, a
- 21 nurse or a pharmacist, and the medications are stored in containers
- 22 other than the prescription bottles, such as medication minders and:
- 23 medication reminding:
- 24 i) Medication minders must be clearly marked as towith the day,
- 25 and time, of and dosage and must be kept in a way as to prevent
- 26 tampering:
- 27 ii) Medication reminding includes only inquiries as to whether
- 28 medications were taken, verbal prompting to take medications,
- 29 handing the appropriately marked medication minder container
- 30 to the client and opening the appropriately marked medication
- 31 minder if the client is unable to do so independently.
- 32 k. Cleaning and basic maintenance of durable medical equipment.
- 33 l. Protective oversight when the client requires supervision to prevent or
- 34 mitigate disability-related behaviors that may result in imminent harm to
- 35 people or property.

1 m. Accompanying includes going with the client, as ~~necessary or indicated~~
 2 in the care plan, to medical appointments, and errands, such as banking
 3 and household shopping. Accompanying the client to provide one or
 4 more personal care services as needed during the trip. Attendant may
 5 assist with communication, documentation, verbal prompting, and/or
 6 hands-on assistance when tasks cannot be completed without the
 7 support of the Attendant.

8 3. Health Maintenance Activities: ~~Routine Health maintenance activities include~~
 9 routine and repetitive health-related tasks furnished to an eligible client in the
 10 community or in the client's home, which are necessary for health and normal
 11 bodily functioning that a person with a disability is physically unable to physically
 12 carry out. Services may include:

13 a. Skin care, ~~provided~~ when the skin is broken, or a chronic skin condition
 14 is active and could potentially cause infection, ~~and the client is unable to~~
 15 apply creams, lotions, sprays, or medications independently due to
 16 illness, injury or disability. Skin care may include: wound care, dressing
 17 changes, application of prescription medicine, and foot care for people
 18 with diabetes when ~~prescribed~~ directed by a Licensed Mmedical
 19 Pprofessional.

20 b. Nail care in the presence of medical conditions that may involve
 21 peripheral circulatory problems or loss of sensation; includes soaking,
 22 filing and trimming.

23 c. Mouth care performed when health maintenance level skin care is
 24 required in conjunction with the task, or:

25 i) There is injury or disease of the face, mouth, head or neck;

26 ii) In the presence of communicable disease;

27 iii) When the client is ~~unconscious~~ unable to participate in the task;

28 iv) eOral suctioning is required;

29 v) There is decreased oral sensitivity or hypersensitivity; or

30 vi) Client is at risk for choking and aspiration.

31 d. Dressing performed when health maintenance-level skin care or
 32 transfers are required in conjunction with the dressing, or; including the
 33 application of anti-embolic or other prescription pressure stockings and
 34 orthopedic devices such as splints, braces, or artificial limbs if
 35 considerable manipulation is necessary

36 i) The client is unable to assist or direct care;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

- ii) Assistance with the application of prescribed anti-embolic or pressure stockings is required;
 - iii) Assistance with the application of prescribed orthopedic devices such as splints, braces, or artificial limbs is required.
 - e. Feeding is considered a health maintenance task when the client requires health maintenance-level skin care or dressing in conjunction with the task, or:
 - i) ~~When~~ Oral suctioning is needed on a stand-by or intermittent ~~other~~ basis;
 - ii) The client is on a prescribed modified texture diet;When
 - iii) The client has a physiological or neurogenic chewing or swallowing problem; ~~there is high risk of choking that could result in the need for emergency measures such as CPR or the Heimlich maneuver as demonstrated by a swallow study~~
 - iiiiv) Syringe feeding or feeding using adaptive utensils is required;
 - iv) Feeding using apparatus
 - v) Oral feeding when the client is unable to communicate verbally, non-verbally or through other means.
 - f. Exercise prescribed by a Licensed Medical Professional, including passive range of motion.
 - g. Transferring a client when they are not able to perform transfers independently due to illness, injury or disability, or: a client when he/she is unable to assist or the use of a lift such as a Hoyer is needed
 - i) The client lacks the strength and stability to stand, maintain balance or bear weight reliably;
 - ii) The client has not been deemed independent with adaptive equipment or assistive devices by a Licensed Medical Professional;
 - iii) The use of a mechanical lift is needed.
 - h. Bowel care performed when health maintenance-level skin care or transfers are required in conjunction with the bowel care, or:

- 1 i) The client is unable to assist or direct care;
- 2 ii) Administration of a bowel program including but not limited to
- 3 digital stimulation, enemas, or suppositories; provided to a client
- 4 including digital stimulation, enemas, care of ostomies, and
- 5 insertion of a suppository if the client is unable to assist;
- 6 iii) Care of a colostomy or ileostomy that includes emptying and
- 7 changing the ostomy bag and application of prescribed skin care
- 8 products at the site of the ostomy.
- 9 i. i. Bladder care performed when health maintenance-level skin
- 10 care or transfers are required in conjunction with bladder care, or;
- 11 i) when it involves disruption of the closed system for a Foley or
- 12 suprapubic catheter, such as changing from a leg bag to a night bag and
- 13 care of external catheters. The client is unable to assist or direct care;
- 14 ii) Care of external, indwelling and suprapubic catheters;
- 15 iii) Changing from a leg to a bed bag and cleaning of tubing and
- 16 bags as well as perineal care.
- 17 j. Medical management required as directed by a Licensed ~~m~~Medical
- 18 Professional to routinely monitor a documented health condition,
- 19 including but not limited to: blood pressures, pulses, respiratory
- 20 assessment rate, blood sugars, oxygen saturations, ~~pain management,~~
- 21 intravenous, or intramuscular injections.
- 22 k. Respiratory care:
- 23 i) Postural drainage;
- 24 ii) Cupping;
- 25 iii) Adjusting oxygen flow within established parameters;
- 26 iv) Suctioning ~~of~~ mouth and/or nose;
- 27 v) Nebulizers;
- 28 vi) Ventilator and tracheostomy care;
- 29 vii) Prescribed respiratory equipment Assistance with set-up and use
- 30 of respiratory equipment.

1 l. Bathing assistance is considered a health maintenance task when the
2 client requires health maintenance-level skin care, transfers or dressing
3 in conjunction with bathing.

4 m. Medication assistance, which may include setup, handling and
5 administering medications.

6 n. Accompanying includes going with the client, as necessary according
7 to the care plan, to medical appointments, and errands such as
8 banking and household shopping. Accompanying the client to provide
9 one or more health maintenance tasks as needed during the trip.
10 Attendant may assist with communication, documentation, verbal
11 prompting and/or hands on assistance when the task cannot be
12 completed without the support of the Attendant.

13 o. Mobility assistance is considered a health maintenance task when health
14 maintenance-level transfers are required in conjunction with the mobility
15 assistance, or:

16 i) The client is unable to assist or direct care;

17 ii) When hands-on assistance is required for safe ambulation and
18 the client is unable to maintain balance or to bear weight reliably
19 due to illness, injury, or disability; and/or

20 iii) The client has not been deemed independent with adaptive
21 equipment or assistive devices ordered by a Licensed Medical
22 Professional

23 p. Positioning includes moving the client from the starting position to a new
24 position while maintaining proper body alignment, support to a client's
25 extremities and avoiding skin breakdown. May be performed when health
26 maintenance level skin care is required in conjunction with positioning,
27 or:

28 i) The client is unable to assist or direct care, or

29 ii) The client is unable to complete task independently

30
31
32 4. Services that may be directed by the client or their selected AR under the Home
33 and Community Based Supported Living Services (HCBS-SLS) waiver are as
34 follows:

35 a. Homemaker services, as defined at section 10 CCR 2505-10 § 8.500.94

b. Personal care services, as defined at section 10 CCR 2505-10 § 8.500.94

c. Health maintenance activities as defined at section 10 CCR 2505-10 § 8.500.94

8.510.4 EXCLUDED SERVICES

8.510.4.A. CDASS Attendants are not authorized to perform services and payment is prohibited:

1. While client is admitted to a nursing facility, hospital, a long-term care facility or incarcerated;:

4.2. Following the death of client;:

2.3. That are duplicative or overlapping. The Attendant cannot be reimbursed to perform tasks at the time a client is concurrently receiving a waiver service in which the provider is required to perform the tasks in conjunction with the service being rendered;

B. Companionship is not a covered CDASS service.

8.510.54 ATTENDANT SUPPORT MANAGEMENT PLAN

8.510.54.A. The client/AR shall develop a written ASMP after completion of training but prior to the start date of services, which shall be reviewed by the Training and Operations Vendor and approved by the Case Manager. CDASS shall not begin until the Case Manager approves the plan and provides a start date to the FMS. The ASMP is required by the FMS following initial training and retraining and shall be modified when there is a change in the client's needs. The plan shall describe the individual's:

1. Current health status

21. Needed Attendant support; and requirements for CDASS;

23. Plans for locating and hiring Attendants; securing CDASS;

43. Plans for handling emergencies;:

54. Assurances and plans regarding direction of CDASS Services, as described at 10 CCR 2505 -10, § 8.510.3 and § 8.510.6, if applicable.

65. Plans for budget management of the budget within the client's Individual Allocation.

1 76. Designation of an Authorized Representative AR, if applicable.

2 87. Designation of regular and back-up employees proposed or approved for hire.

3 8.510.54.B. If the ASMP is disapproved by the Case Manager, the client or AR has the right
4 to review that the disapproval. The client or AR shall submit a written request to the CMA
5 stating the reason for the review and justification of the proposed ASMP. The client's
6 most recently approved ASMP shall remain in effect while the review is in process.

7 ~~8.510.5~~ **TRAINING ACTIVITIES**

8 ~~8.510.5.A.~~ ~~When necessary to obtain the goals of the ASMP, the client/AR shall verify~~
9 ~~that each attendant has been or will be trained in all necessary health maintenance~~
10 ~~activities prior to performance by the attendant.~~

11 ~~8.510.5.B~~ ~~The verification requirement of 10 CCR 2505-10, §8.510.5.A above will be on~~
12 ~~a form provided by the FMS and returned to the FMS with the client/AR completed~~
13 ~~employment packet.~~

14 **8.510.66 CLIENT/AR RESPONSIBILITES**

15 8.510.66.A. Client/AR responsibilities for CDASS Management:

- 16 1. Attend Complete training provided by the Training and Operations Vendor;
17 clients Clients who cannot attend complete trainings shall designate an AR.
- 18 2. Develop an ASMP at initial enrollment and at time of an Allocation change based
19 on the client's needs.
- 20 3. Determine wages for each Attendant not to exceed the rate established by the
21 Department. Wages shall be established in accordance with Colorado
22 Department of Labor and Employment standards including, but not limited to,
23 minimum wage and overtime requirements. Attendant wages may not be below
24 the state and federal requirements at the location where the service is provided.
- 25 4. Determine the required qualifications ~~credentials~~ for Attendants.
- 26 5. Recruit, hire and manage Attendants.
- 27 ~~6. 5.~~ Complete previous employment reference checks on Attendants.
- 28 7. Train Attendants to meet the client's needs. —When necessary to meet the
29 goals of the ASMP, the client/AR shall verify that each Attendant has been or will
30 be trained in all necessary health maintenance activities prior to performance by
31 the Attendant.
- 32 8. Terminate Attendants when necessary, including when an Attendant is not
33 meeting the client's needs.

1 ~~3. Terminate Attendants who are not meeting client needs~~

2 ~~4. Operate as the sole employer of the attendant~~

3 ~~5. Complete necessary employment related functions through the FMS agent,~~
4 ~~including hiring and termination of Attendants and employer related paperwork~~
5 ~~necessary to obtain an employer tax ID~~

6 8.510.~~6-6.B.C~~ Client/AR responsibilities for Verification:

7 1. Sign and return a responsibilities acknowledgement form for activities listed in 10
8 CCR 2505-10, §8.510.6 to the Case Manager.

9
10 8.510.~~66.CD~~. Clients ~~receiving-utilizing~~ CDASS ~~services~~ have the following ~~r~~Rights:

11 1. Right to receive ~~instruction-training~~ on managing CDASS.

12 2. Right to receive program materials in accessible format.

13 3. Right to receive ~~advance N~~otification of changes to CDASS.

14 4. Right to participate in Department-~~s~~ponsored opportunities for input.

15 5. ~~CDASS e~~Clients ~~using CDASS~~ have the right to transition ~~back to alternative~~
16 ~~service delivery options at any time. Personal Care, Homemaker, and Home~~
17 ~~Health Aide and Nursing services provided by an agency at any time. A client~~
18 ~~who wishes to transition back to an agency provided services shall contact the~~
19 ~~Case Manager. The Case Manager shall coordinate arrangements the transition~~
20 ~~and referral process. for the services.~~

21 6. A client/AR may request a re-assessment, ~~as described at 10 CCR 2505-10, §~~
22 ~~8.390.1 (N), if his or her~~the client's level of service needs have changed.

23 7. A client/AR may revise the ASMP at any time with ~~CM-Case Manager~~ approval,
24 ~~CM shall notify FMS of changes.~~

25 **8.510.~~77~~ AUTHORIZED REPRESENTATIVES (AR)**

26 8.510.~~77~~.A. A person who has been designated as an AR shall submit an AR designation
27 affidavit attesting that he or she:

28 1. Is least eighteen years of age;

29 2. Has known the eligible person for at least two years;

1 3. Has not been convicted of any crime involving exploitation, abuse, or
2 assault on another person; and

3 4. Does not have a mental, emotional, or physical condition that could
4 result in harm to the client.

5 8.510.7.B. CDASS clients_who require an AR may not serve as an AR for another CDASS
6 client.

7 ~~8.510.77.CB. Authorized Representatives~~An AR shall not receive reimbursement for CDASS
8 AR services and shall not be reimbursed ~~for CDASS services~~ as an Attendant for
9 the client they represent.

10 8.510.7.D. An AR must comply with all requirements contained in 10 CCR 2505-10, §
11 8.510.6.

12 **8.510.88 ATTENDANTS**

13 8.510.88.A. Attendants shall be at least 18 years of age and demonstrate competency in
14 caring for the client to the satisfaction of the client/AR.

15 8.510.88.B. Attendants may not be reimbursed for more than 24 hours of CDASS service in
16 one day for one or more clients collectively.

17 8.510.88.C. ~~Authorized Representatives~~An AR shall not be employed as an Attendant for the
18 same client for whom they are an AR.

19 8.510.88.D. Attendants must be able to perform the tasks on the ~~Service Plan~~ASMP they are
20 being reimbursed for and the client must have adequate Attendants to assure
21 compliance with all tasks on the ~~service plan~~ASMP.

22 8.510.8.E. Attendant timesheets submitted for approval must be accurate and reflect time
23 worked.

24 8.510.88.FE. Attendants shall not misrepresent themselves to the public as a licensed nurse, a
25 certified nurse's aide, a licensed practical or professional nurse, a registered
26 nurse or a registered professional nurse.

27 8.510.88.GF. Attendants shall not have had his or her license as a nurse or certification as a
28 nurse aide suspended or revoked or his or her application for such license or
29 certification denied.

30 8.510.88.HG. Attendants shall receive an hourly wage based on the rate negotiated between
31 the Attendant and the client/AR not to exceed the amount established by the
32 Department. The FMS vendor shall make all payments from the client's Individual
33 Allocation under the direction of the client/AR within the limits established by the
34 Department.

1 8.510.8.I. Attendants are not eligible for hire if their background check identifies a
 2 conviction of a crime that the Department has identified as a barrier crime that
 3 can create a health and safety risk to the client. A list of barrier crimes is
 4 available through the Training and Operations Vendor and FMS vendors.

5 ~~8.510.88.JH.~~ Attendants may not attend training provided by the Training and Operations
 6 Vendor during instruction. Attendants may not participate in training provided by
 7 the Training and Operations Vendor. Clients may request to have their Attendant,
 8 or a person of their choice, present to assist them during the training based on
 9 their personal assistance needs. Attendants may not be present during the
 10 budgeting portion of the training.

11 ~~8.510.985~~ **FINANCIAL MANAGEMENT SERVICES (FMS)**

12 ~~8.510.895.A.~~ The FMS vendors shall be responsible for the following tasks:

- 13 1. Collect and process timesheets submitted by attendants within agreed-upon
 14 timeframes as identified in FMS vendor materials and websites.
- 15 2. Conduct payroll functions, including withholding employment-related taxes such
 16 as worker's compensation insurance, unemployment compensation
 17 insurance benefits, withholding of all federal and state taxes, and compliance with
 18 federal and state laws regarding overtime pay and minimum wage requirements.
- 19 3. Distribute paychecks in accordance with agreements made with client/AR and
 20 timelines established by the Colorado Department of Labor and Employment.
- 21 4. Submit authorized claims for CDASS provided to an eligible client.
- 22 5. Verify Attendants' citizenship status and maintain copies of ~~the~~ I-9 documents.
- 23 6. Track and report utilization of client allocations.
- 24 7. Comply with Department regulations ~~at 10 CCR 2505-10~~ and the FMS vendor
 25 contract with the Department.
- 26 ~~8. Maintain system prompts in the FMS vendor portal requiring case manager~~
 27 ~~Case Managers to verify that all requirements and forms have been completed prior to~~
 28 ~~completing submitting a prior authorization request PAR for services.~~
- 29 ~~9. Comply with all requirements set forth by the Affordable Care Act.~~

30 ~~8.510.895.B.~~ In addition to the requirements set forth at 10 CCR 2505-10, § 8.510.9.A, the
 31 FMS vendor operating under the F/EA model shall be responsible for obtaining
 32 designation as a Fiscal/Employer Agent per in accordance with Section 3504 of
 33 the ~~IRS~~ Internal Revenue Code. This statute is hereby incorporated by reference.
 34 The incorporation of these statutes excludes later amendments to, or editions of
 35 the referenced material. Pursuant to C.R.S. § 24-4-103(12.5), the Department

1 maintains copies of this incorporated text in its entirety, available for public
 2 inspection during regular business hours at 1570 Grant Street, Denver, CO,
 3 80203. Certified copies of incorporated materials are provided at cost upon
 4 request.

5 **8.510.8106** SELECTION OF FMS VENDORS

6 8.510.8106.A. The client/AR shall select an FMS vendor at the time of enrollment into CDASS
 7 from the vendors contracted with the Department.

8 8.510.8106.B The client/AR may select a new FMS vendor during the designated open
 9 enrollment periods. The client/AR shall remain with the selected FMS vendor
 10 until the selection-transition to the new of FMS vendor is changed-completed
 11 during the designated open-enrollment period.

12 **8.510.911** START OF SERVICES

13 8.510.911.A. The CDASS start date shall not occur until all of the requirements defined
 14 at-contained in 10 C.C.R.CCR 2505-10, §§ 8.510.2, 8.510.4, 8.510.5, 8.510.6 and
 15 8.510.8 have been met.

16 8.510.911.B. The Case Manager shall approve the ASMP, establish a certification-service
 17 period, submit a PAR and receive a PAR approval before a client is given the-a
 18 start date and can begin CDASS.

19 8.510.911.C. The FMS vendor shall process the Attendant's employment packet within the
 20 Department's prescribed timeframe and ensure the client has a minimum of two
 21 approved Attendants prior to starting CDASS. Employment-The client must
 22 maintain employment relationships with two Attendants must-be-maintained while
 23 participating in CDASS.

24 8.510.911.D. The FMS vendor will not reimburse Attendants for services provided prior to the
 25 CDASS start date. Attendants are not approved until the FMS vendor provides
 26 the client/AR with an-employee numbers and confirms Attendants' employment
 27 status.

28 8.510.911.E. If a client is transitioning from a Hospital-hospital, Nursing-nursing Facility-facility,
 29 or HCBS agency services, the CM-Case Manager shall coordinate with the
 30 Discharge-discharge Coordinator-coordinator to ensure that the client's discharge
 31 date and CDASS start date correspond.

32 **8.510.4012** SERVICE SUBSTITUTION

33 8.510.4012.A. Once a start date has been established for CDASS, the Case Manager shall
 34 establish an end date and disenroll-discontinue the individual-client from any
 35 other Medicaid-funded Attendant support including Long Term Home Hhealth,
 36 homemaker and personal care services effective as of the start date of CDASS.

1 8.510.4012.B. Case Managers shall not authorize PARs with , -on the PAR, concurrent
2 payments for CDASS and other waiver service delivery options for Personal Care
3 services, Homemaker services, and Health Maintenance Activities for the same
4 individual/client.

5 8.510.4012.C. Clients may receive up to sixty days of Medicaid acute-Acute Hhome health
6 Health agency based services directly following acute episodes as defined by 10
7 CCR 2505-10, § 8.523.11.K.1. -CDASS service plans shall be modified to ensure
8 no duplication of services. Client allocations shall not be changed for sixty days in
9 response to an acute episode unless acute home health services are
10 unavailable. If acute home health is unavailable, a client's allocation may be
11 temporarily adjusted to meet a client's need.

12 8.510.4012.D. Clients may receive Hospice services in conjunction with CDASS services.
13 CDASS service plans shall be modified to ensure no duplication of services.

14 **8.510.11 — ENDING CONSUMER DIRECTED ATTENDANT SUPPORT SERVICES**

15 **8.510.11.A. — If an individual chooses to use an alternate care option, an institutional**
16 **setting, or is terminated involuntarily, a client will be terminated from CDASS when**
17 **the Case Manager has secured an adequate alternative to CDASS in the**
18 **community.**

19 **8.510.4134.B. FAILURE TO MEET CLIENT/AR RESPONSIBILITIES**

20 8.510.13.A. If a client/AR fails to meet their CDASS responsibilities, the client may be
21 terminated from CDASS. Prior to a client being terminated from CDASS for
22 reasons other than those listed in section 10 CCR 2505-10, §8.510.13, the
23 following steps may shall be taken:

- 24 1. Mandatory re-training conducted by the contracted Training and Operations
25 Vendor.
- 26 2. Required designation of an AR if one is not in place, or mandatory re-designation
27 of an AR if one has already been assigned.

28 8.510.13.B. Actions requiring retraining, or appointment or change of an AR include any of the
29 following:

30 3. — Discontinuation according to the following:

31 i) — The notice shall provide the client/AR with the reasons for termination and with
32 information about the client's rights to fair hearing and appeal procedures, in accordance
33 with 10 CCR 2505-10, §§ 8.057. Once notice has been given for termination, the
34 client/AR shall contact the Case Manager for assistance in obtaining other home care
35 services. The Case Manager has thirty (30) calendar days prior to the date of termination
36 to discontinue CDASS services and begin alternate care services. Exceptions may be
37 made to the thirty (30) day advance notice requirement when the Department has

1 ~~documented that there is danger to the client or to the Attendant(s). The Case Manager~~
2 ~~shall notify the FMS of the date on which the client is being terminated from CDASS.~~

3 **8.510.12** ~~TERMINATION~~

4 ~~8.510.12.A. Clients may be terminated for the following reasons:~~

- 5 1. The client/AR ~~fails to~~does not comply with CDASS program requirements
6 including service exclusions.
- 7 2. The client/AR demonstrates an inability to manage Attendant support.
- 8 3. ~~The~~A client/AR no longer meets program eligibility criteria due to deterioration in
9 physical or cognitive health as determined by the client's physician, physician
10 assistant, or advance practice nurse.
- 11 4. The client/AR spends the monthly Allocation in a manner indicating causing
12 premature depletion of funds without authorization from the Case Manager or
13 reserved funds. The Case Manager will follow the service utilization protocol.
- 14 ~~5. The client's medical condition causes an unsafe situation for the client, as~~
15 ~~determined by the treating physician.~~
- 16 5. The client/AR exhibits Inappropriate Behavior as defined at 10 C.C.R. 2505-10, §
17 8.510.1 toward Attendants, Case Managers, the Training and Operations
18 Vendor, or the FMS vendor.
- 19 6. The client/AR authorizes the Attendant to perform services while the client is in a
20 Nursing Facility, Hospital, a long-term care facility or while incarcerated.
- 21 ~~6. The client provides false information or false records as determined by the~~
22 ~~Department~~

23 ~~8.510.12.B. Clients who are terminated according to 10 CCR 2505-10, § 8.510.12 may be re-~~
24 ~~enrolled for future CDASS service delivery~~

25 **8.510.134** IMMEDIATE INVOLUNTARY TERMINATION

26 8.510.134.A. ~~Clients who are involuntarily terminated may not be re-enrolled in CDASS as a~~
27 ~~service delivery option.~~ Clients may be involuntarily terminated immediately from CDASS
28 for the following reasons:

- 29 1. A client/AR no longer meets program criteria due to deterioration in physical or
30 cognitive health AND the client refuses to designate an AR to direct services.
- 31 2. The client/AR demonstrates a consistent pattern of overspending their monthly
32 Allocation leading to the premature depletion of funds AND the Department Case

1 Manager has determined that ~~adequate~~ attempts using the service utilization
2 protocol to assist the client/AR to resolve the overspending have failed.

3 3. The client/AR exhibits Inappropriate Behavior as defined at 10 C.C.R. 2505-10, §
4 8.510.1 toward Attendants, Case Managers, the Training and Operations Vendor
5 or the FMS vendor, and the Department has determined that the Training and
6 Operations Vendor has made ~~adequate~~ attempts to assist the client/AR to
7 resolve the Inappropriate Behavior or assign a new AR, and those attempts have
8 failed.

9 4. Client/AR authorized the Attendant to perform services for a person other than
10 the client, authorized services not available in CDASS, or allowed services to be
11 performed while the client is in a hospital, nursing facility, a long term care facility
12 or while incarcerated and the Department has determined the Training and
13 Operations Vendor has made adequate attempts to assist the client/AR in
14 managing appropriate services through retraining. Documented misuse of the
15 monthly Allocation by client/AR has occurred

16 5. Intentional submission of fraudulent CDASS documents or information to Case
17 Managers, the Training and Operations Vendor, the Department, or the FMS
18 vendor.

19 6. Instances of ~~convicted proven~~ fraud ~~and/or abuse~~, abuse, and/or theft in
20 connection with the Colorado Medical Assistance program.

21 7. Client/AR fails to complete retraining, appoint an AR, or remediate CDASS
22 management per 10 C.C.R. 2505-10, § 8.510.13.A.

23 ~~8.510.143.B. Termination may be initiated immediately for clients being involuntarily~~
24 ~~terminated.~~

25 **8.510.15 ENDING THE CDASS DELIVERY OPTION**

26 8.510.15.A. If a client chooses to use an alternate care option or is terminated involuntarily,
27 the client will be terminated from CDASS when the Case Manager has secured
28 an adequate alternative to CDASS in the community.

29
30 8.510.15.B. In the event of discontinuation of or termination from CDASS, the Case Manager
31 shall:

32 1. Complete the Notice Services Status (LTC-803) and provide the client or
33 AR with the reasons for termination, information about the client's rights to fair
34 hearing, and appeal procedures. Once notice has been given for termination, the
35 client or AR may contact the Case Manager for assistance in obtaining other
36 home care services or additional benefits, if needed.

2. The Case Manager has thirty (30) calendar days prior to the date of termination to -discontinue CDASS and begin alternate care services. Exceptions may be made to increase or decrease the thirty (30) day advance notice requirement when the Department has documented that there is danger to the client. The Case Manager shall notify the FMS vendor of the date on which the client is being terminated from CDASS.

8.510.135.C. Clients who are involuntarily terminated ~~according pursuant~~ to 10 CCR 2505-10, §§ 8.510.14.A.2., 8.510.14.A.4., 8.510.14.A.5, 8.510.14.A.6., and 8.510.14.A.7. may not be re-enrolled in CDASS as a service delivery option.

8.510.15.D. Clients who are involuntary terminated pursuant to 10 CCR 2505-10, § 8.510.14.A.1. are eligible for enrollment in CDASS with the appointment of an AR or eligibility documentation as defined at 10 CCR 2505-10, § 8.510.2.A.5. The client or AR must have successfully completed CDASS training prior to enrollment in CDASS.

8.510.15.E. Clients who are involuntary terminated pursuant to 10 CCR 2505-10, § 8.510.14.A.3 are eligible for enrollment in CDASS with the appointment of an AR. The client must meet all CDASS eligibility requirements with the AR completing CDASS training prior to enrollment in CDASS.

8.510.146 CASE MANAGEMENT FUNCTIONS

8.510.164.A. The Case Manager shall review and approve the ASMP completed by the client/AR. The Case Manager shall notify the client/AR of ~~ASMP~~the approval and establish a ~~certification-service~~ period and Allocation.

8.510.164.B. If the Case Manager determines that the ASMP is inadequate to meet the client's CDASS needs, the Case Manager shall work with the client/AR to complete a fully-developed ASMP. ~~assist the client/AR with further development of the ASMP.~~

8.510.164.C. The Case Manager shall calculate the ~~Individual~~ Allocation for each client who chooses CDASS as follows:

1. Calculate the number of ~~P~~personal ~~c~~Care, ~~h~~Homemaker, and ~~h~~Health ~~m~~Maintenance ~~a~~Activities hours needed on a monthly basis using the Department's prescribed method. The needs determined for the Allocation should reflect the needs in the ~~ULTC-Department-approved~~ assessment tool and the service plan. The Case Manager shall use the Department's established rate for ~~p~~Personal ~~C~~care, ~~h~~Homemaker, and ~~h~~Health ~~m~~Maintenance ~~a~~Activities to determine the client's Allocation.

1 2. The Allocation should be determined using the Department's prescribed method
2 at the client's initial CDASS enrollment and at ~~CSR, and reassessment should~~
3 ~~always match the client's need for service, s.~~ Service authorization will align with
4 the client's need for services and adhere to all service authorization requirements
5 and limitations established by the client's waiver program.

6 3. Allocations that exceed care in an institutional setting cannot be authorized by
7 the Case Manager without Department approval. The Case Manager will follow
8 the Department's over-cost containment process and receive authorization prior
9 to authorizing a start date for Attendant services.

10
11 8.510.164.D. Prior to training or when an Aallocation changes, the Case Manager shall provide
12 written Notification of the Individual Allocation to ~~each the~~ client and the AR, if
13 applicable.-

14 8.510.164.E. A client or AR who believes the client he or she needs a change in Attendant
15 support, may request the Case Manager to perform a reassessment review of the
16 CDASS Task Worksheet and Allocation for services. Review should be
17 completed within five (5) business days.

18 1. If the reassessment review indicates that a change in Attendant support
19 is justified, the following actions will be taken; the client/AR shall amend the
20 ASMP and the Case Manager shall complete a PAR revision indicating the
21 increase, and submit it to the Department's fiscal agent.

22 a. ~~_____~~

23 a. 2. The Case Manager shall provide notice of the Allocation
24 change to the client/AR utilizing a long-term care notice of action form
25 within ten (10) business days regarding their appeal rights in accordance
26 with 10 CCR 2505-10, section 8.057, et seq.

27 b. The Case Manager shall complete a PAR revision indicating the increase
28 in CDASS Allocation using the and make changes in the
29 BUS Department's Medicaid Management Information System and FMS
30 vendor system. PAR revisions shall be completed within five (5) business
31 days of the Allocation determination.

32 c. The client/AR shall amend the ASMP and submit it to the Case Manager.

33 23. The Training and Operations Vendor is available to facilitate a review of
34 services and provide mediation when there is a disagreement in the services
35 authorized on the CDASS Task Worksheet.

36 34. The Case Manager will notify the client of CDASS Allocation
37 approval or disapproval by providing a long-term care notice of action form to

1 clients within ten (10) business days regarding their appeal rights in accordance
 2 with 10 CCR 2505-10, section 8.057, et seq.

3 8.510.164.F. In approving an increase in the client's individual Allocation, the Case Manager
 4 shall consider all of the following:

- 5 1. Any deterioration in the client's functioning or change in the availability of natural
 6 supports ~~condition, meaning assistance provided to the client without the~~
 7 requirement or expectation of compensation.
- 8 2. The appropriateness of Attendant wages as determined by Department's
 9 established rate for equivalent services.
- 10 3. The appropriate use and application of funds ~~to for~~ CDASS services.

11 8.510.164.G. In reducing a client's ~~Individual~~ Allocation, the Case Manager shall consider:

- 12 1. Improvement of functional condition or changes in the available natural supports.
- 13 2. Inaccuracies or misrepresentation in the client's previously reported condition or
 14 need for service.
- 15 3. The appropriate use and application of funds ~~to for~~ CDASS services.

16 8.510.164.H. Case Managers shall ~~notify the state fiscal agent to~~ cease payments for all
 17 existing Medicaid-funded ~~P~~personal ~~C~~care, ~~H~~homemaker, ~~H~~health
 18 ~~m~~Maintenance ~~Activities-activities~~ and/or ~~Long-Term~~Long-Term Home Health as
 19 defined under the Home Health Program at 10 CCR 2505-10, §8.520 et seq. as
 20 of the client's CDASS start date.

21 8.510.164.I. For effective coordination, monitoring and evaluation of clients receiving CDASS,
 22 the Case Manager shall:

- 23 1. Contact the CDASS client/AR once a month during the first three months to
 24 assess their CDASS management, their satisfaction with ~~care~~
 25 providersAttendants, and the quality of services received. Case Managers may
 26 refer ~~clients~~clients/ARs to the FMS vendor for assistance with payroll ~~and~~
 27 ~~budgeting~~ and to the Training and Operations Vendor for training needs.
 28 budgeting, and supports.
- 29 2. Contact the client/AR quarterly, after the first three months to assess their
 30 implementation of ~~service~~Attendant ~~services-plans~~, CDASS management issues,
 31 ~~and~~ quality of care, CDASS Allocation expenditures, and general satisfaction.
- 32 3. Contact the client/AR when a change in AR occurs and contact the client/AR
 33 once a month for three months after the change takes place.

1 4. Review monthly FMS vendor reports to monitor client-Allocation spending
 2 patterns and service utilization to ensure appropriate budgeting and follow up
 3 with the client/AR when discrepancies occur.

4 5. Utilize Department overspending protocol when needed to assist CDASS
 5 clients/AR.

6 6. Follow protocols established by the Department for case management activities.

7 8.510.164.J. ~~Reassessment: For clients receiving CDASS, the Case Manager shall conduct~~
 8 ~~an interview with each client/AR every six months and at least every 12 months~~
 9 ~~The Case Manager will follow in-person and phone contact requirements based~~
 10 ~~on the client's waiver program. The interview shall be conducted face to face.~~
 11 ~~The interview~~Contacts shall include a review of care needs, the ASMP, and
 12 documentation from the physician, physician assistant, or advance practice nurse
 13 stating the client's/AR's ability to direct care.

14 8.510.16.K. Case Managers shall participate in training and consulting opportunities with the
 15 Department's contracted Training and Operations Vendor.

16 **8.510.175 ATTENDANT REIMBURSEMENT**

17 8.510.157.A. Attendants shall receive an hourly wage not to exceed the rate established by the
 18 Department and negotiated between the Attendant and the client/AR hiring the
 19 Attendant. The FMS vendor shall make all payments from the client's Individual
 20 Allocation under the direction of the client/AR. Attendant wages shall be
 21 commensurate with the level of skill required for the task and wages shall be
 22 justified on-in the ASMP.

23 8.510.17.B. Attendant timesheets that exceed the client's monthly CDASS Allocation by 30%
 24 or more are not allowed and cannot be authorized by the client or AR for
 25 reimbursement through the FMS vendor.

26 8.510.~~15~~17.CB. Once the client's yearly Allocation is used, further payment will not be made by
 27 the FMS vendor, even if timesheets are submitted. Reimbursement to Attendants
 28 for services provided when a client is no longer eligible for CDASS or when the
 29 client's Allocation has been depleted are the responsibility of the client/AR.

30 8.510.~~15~~17.DC. ~~Allocations that exceed the cost of providing services in a facility cannot be~~
 31 ~~authorized by the Case Manager without Department approval. Allocations shall~~
 32 ~~not exceed the monthly cost containment cap. The Department may approve an~~
 33 ~~over cost containment Allocation if it meets prescribed Department criteria.~~

34 **8.510.~~16~~18 REIMBURSEMENT TO FAMILY MEMBERS**

35 8.510.~~16~~18.A. Family Mmembers/legal guardians may be employed by the client/AR ~~or FMS~~ to
 36 provide CDASS, subject to the conditions below. ~~For the purposes of this section,~~

1 ~~family shall be defined as all persons related to the client by virtue of blood,~~
2 ~~marriage, adoption, or common law.~~

3 8.510.4618.B. The family member or legal guardian shall be employed by the client/~~AR or FMS~~
4 and be supervised by the client/~~AR, if providing CDASS.~~

5
6 8.510.4618.C. ~~_____~~ The ~~family member~~Family Member and/or legal guardian being
7 reimbursed as a ~~p~~Personal ~~C~~care, ~~h~~Homemaker, and/or ~~H~~health ~~M~~maintenance
8 ~~Activities~~activities Attendant shall be reimbursed at an hourly rate with the
9 following restrictions:

- 10 1. A ~~family member~~Family Member and/or legal guardian shall not be reimbursed
11 for more than forty (40) hours of CDASS in a seven-day period from 12:00 am
12 on Sunday to 11:59 pm on Saturday.
- 13 2. Family ~~member~~Member wages shall be commensurate with the level of skill
14 required for the task and should not deviate ~~greatly~~ from that of a non-family
15 ~~Family member~~Member Attendant unless there is evidence of ~~a that the Family~~
16 ~~Member has a~~ higher level of skill.
- 17 3. A member of the client's household may only be paid to furnish extraordinary
18 care as determined by the Case Manager. Extraordinary care is determined by
19 assessing whether the care to be provided exceeds the range of care that a
20 ~~family member~~Family Member would ordinarily perform in the household on
21 behalf of a person without a disability or chronic illness of the same age, and
22 which ~~are is~~ necessary to assure the health and welfare of the client and avoid
23 institutionalization. Extraordinary care shall be documented on the service plan.

24 8.510.4618.D. A client/AR who chooses a ~~family member~~Family Member as a care provider,
25 shall document the choice on the ~~Attendant Support Services management~~
26 ~~plan~~ASMP.

27