



## COLORADO

Department of Health Care  
Policy & Financing

Medical Services Board

### MINUTES OF THE MEETING OF THE MEDICAL SERVICES BOARD

303 East 17th Avenue 11th Floor Conference Room, Denver, CO 80203  
February 9, 2024

#### Call to Order

Mr. Honea called the meeting to order at 9:02 a.m.

#### Roll Call

The Board Coordinator called the roll. There were sufficient members for a quorum with eleven members participating.

##### A. Members Present

Laura Carroll, Cecile Fraley, Simon Hambidge, Morgan Honea, William Kinnard, James McLaughlin, Barry Martin, Idalia Massa-Carroll, Christina Mulkey, An Nguyen and Vincent Scott.

##### B. Members Excused

##### C. Staff Present

Adela Flores-Brennan, Medicaid Director; Jennifer Weaver, Attorney General; and Chris Sykes, Board Administrator

#### Announcements

Mr. Honea announced the next Medical Services Board Meeting will be held at 303 E 17<sup>th</sup> Ave, 11<sup>th</sup> Floor conference Room, Denver, CO 80203 on Friday, March 8, 2024 at 9:05 a.m.

It is the policy of this Board and the Department to remind everyone in attendance that this facility is private property. Please do not block the doors or stand around the edges of the room. Please silence cell phones while in the meeting room.

## **Approval of Minutes**

Ms. Carroll moved for the approval of the November minutes. The motion was seconded by Dr. Hambidge. The minutes were approved, 11:0.

## **Rules**

### **A. Emergency Adoption**

Document 08, MSB 24-02-01-B, Revision to the Medical Assistance Act Rule concerning Nursing Facility Immunization Administration, Sections 8.443 and 8.815

Richard Clark, Office of Community Living, and Christina Winship, Health Programs Office, presented the rule and explained this is an extension of a Public Health Emergency rule.

Board Discussion – Board discussion included a question regarding if the rule can be made permanent, the Department must align with the Centers for Medicare and Medicaid Services, (CMS). A rule regarding Respiratory Syncytial Virus (RSV) for the elderly will be coming.

Public Testimony – NA.

Mr. McLaughlin moved for the emergency adoption of Document 08. Ms. Carroll seconded the motion.

The Board voted the emergency adoption of Document 08, 11:0.

Document 09, MSB 24-01-22-A, Revision to Medical Assistance Act Concerning Quality of Care Grievances Resolution Timeframe, Section 8.209.D&E

Alex Lyons, Compliance Section, presented the rule and explained revisions extend the timeframe for grievances. Comprehensive investigations frequently take longer than 15 days, so this proposed rule will align with investigatory best practices to ensure standards of care are being met and improve safety and quality of care for members. Aligning with investigatory best practices will ensure there is adequate time to conduct and complete investigations, while also reducing the unnecessary burden of trying to conclude investigations earlier or conducting them to a lesser degree to meet current timelines.

Board Discussion – Board discussion included why this is an emergency. Issues with the grievance process, there are significant contract changes for reporting. It takes time to receive records, perform the investigation and report out. The current rule has a shortened timeline. A shorter timeframe benefits the members. A counterpoint to the timeline being short is that there is an incentive to close grievances, which leads to hasty investigations that could be incomplete. 15 days is not easily achieved for a complete investigation. Changes won't increase the workload, so no additional budget needed. Members being asked to

a quarter of year for resolution seems unreasonable. Contract amendment to continue care during the grievance process.

Public Testimony – NA.

No motion was provided and the rule does not pass.

## **B. Final Adoption by Consent Agenda**

Document 01, MSB 23-10-25-C, Revision to the Medical Assistance Rule concerning Transition Coordination Services & Targeted Case Management – Transition Coordination (TCM-TC), Sections 8.519.27 and 8.763

Dr. Hambidge moved for the final adoption of Document 01. Dr. Fraley seconded the motion.

The Board voted the final adoption of Document 01, 11:0.

## **C. Final Adoption Agenda**

Document 02, MSB 23-12-16-A, Revision to the Medical Assistance Act Rule Concerning Specialty Drug Carveout from DRG Payments, Section 8.300.5

Andrew Abalos, Rates Division, presented the rule and explained currently, the Department of Health Care Policy and Financing reimburses hospitals for the provision of inpatient services to Health First Colorado members using the All-Patient Refined Diagnosis Related Groups (APR DRG) methodology, which is a prospective payment system developed by 3M which relies on statistical and clinical analysis of historic data to prospectively determine reimbursement for inpatient hospital stays. As this method relies on historic data, it does not consider hospital charge data for new-to-market specialty drugs in its reimbursement calculations. The purpose of this rule change is to allow for the reimbursement of these drugs outside of the APR DRG methodology to reduce barriers to care.

Board Discussion – Board discussion included the large dollar cost of the pharmaceuticals. Drugs eligible for the carveout have no other options and are high-cost rare circumstances. Unfortunately, pediatric drugs cannot be addressed through current methodology.

Public Testimony – NA

Ms. Carroll moved for the final adoption of Document 02. Dr. Nguyen seconded the motion.

The Board voted the initial approval of Document 02, 11:0.

Document 03, MSB 23-12-26-C, Revisions to the Medicaid Assistance Rule Concerning the Hospital Expenditure Report Data Collection, 8.4000

James Johnston, Special Financing Division, presented the rule and explained from the emergency adoption to now there has been minimal feedback received.

One comment regarding the requirements was asked and answered. Additional engagement will occur in the Spring.

Board Discussion – Board discussion included requests for information, when available and who looks at the data and what is done. If no feedback is received from a hospital, the hospital will be addressed as unaudited. At the annual reporting the hospital will be audited. Staff look at the information to see how hospitals are doing financially. A different bill requires reporting to the Colorado legislature.

Public Testimony – NA

Dr. Martin moved for the final adoption of Document 03. Dr. Kinnard seconded the motion.

The Board voted the initial approval of Document 03, 11:0.

#### **D. Initial Approval**

Document 04, MSB 23-04-25-C, Revision to the Medical Assistance Act Rule concerning The HB23-1183 Implementation, Section 8.800.A and 8.800.7

Korri Conilogue, Pharmacy Office, presented the rule and explained that HB23-1183 requires the Department to review and determine if an exception to step therapy is granted if the prescribing provider submits a prior authorization request with justification and supporting clinical documentation for treatment of a serious or complex medical condition. The Department is revising the rule to define "Serious or Complex Medical Condition" and "Step Therapy". Additionally, to describe the exception to step therapy process for drugs used to treat a Serious or Complex Medical Condition pursuant to HB23-1183.

Board Discussion – Board discussion included the marginal increase in cost of action.

Public Testimony – Molly Eckerle, Chronic Care Collaborative, thank the department staff working for timely medications to members and access to care.

Dr. Fraley moved for the initial approval of Document 04. Dr. Nguyen seconded the motion.

The Board voted the initial approval of Document 04, 11:0.

Document 05, MSB 23-11-03-A, New High Utilizer Supplemental Payment, NF Parolees Supplemental Payment, Post Eligibility Treatment of Income (PETI) Dental Benefit Removal, Section 8.443 & 8.482

Christine Bates, Office of Community Living, presented the rule and explained new nursing facility high utilizer has 2 payment tiers. The first is 85% utilization, with an increase of 10. The second tier is from 75 – 84.99% payment with an increase of 5. Correction persons certified by a doctor has 2 tiers and the rates are being negotiated. Safeguards are put in place and language has been updated.

Board Discussion – NA

Public Testimony – NA

Dr. Hambidge moved for the initial approval of Document 05. Mr. McLaughlin seconded the motion.

The Board voted the initial approval of Document 05, 11:0.

Document 06, MSB 23-08-02-A, Revision to the Medical Assistance Rule concerning the Program of All-Inclusive Care for the Elderly (PACE), Section 8.497

Zack Gibbons, Benefits & Services Division, presented the rule and provided a background of the program. Historically the Department held providers to federal regulations. SB22-203 directed the Department to set rules for the PACE program. Staff reviewed the key points in the rule.

Board Discussion – Board discussion included an appreciation of the stakeholder engagement performed, very thorough. Great presentation addressed why the change. The Centers for Medicare and Medicaid Services imposed sanctions on Innovage due to deficiencies found on health and welfare. Rule revisions help guide a good program for all PACE providers. Medical needs not being met in a timely fashion, lack of contact with participants and follow-up. Service area expansion with new providers coming on board. Regulatory burden in rural communities, this rule does not create more burden. If a provider is sanctioned or expelled and evaluation on the geographic area will be performed and work with the existing providers.

Public Testimony – Deborah Lively, Leading Age Colorado, support the rule, great engagement. Home Health licensure in legislation. Set for stand-alone not how PACE providers work, staff agreed to work with the Colorado Department of Public Health and Environment to address issues.

Dr. Martin moved for the initial approval of Document 06. Dr. Fraley seconded the motion.

The Board voted the initial approval of Document 06, 11:0.

## **E. Consent Discussion**

Dr. Hambidge motioned to add Document 04, 05 & 06 to the Consent Agenda.

The Board voted to add Document 05 to the Consent Agenda; 11:0.

## **F. Closing Motion**

Mr. McLaughlin moved to close the rules portion of the agenda. The motion was seconded by Dr. Nguyen.

## Open Comments

NA

## Rule Previews

- Member Appeals Rule – Rachel Entrican, Legal Director
- Private Duty Nursing Rule – Candace Bailey, HCBS Division Director

## Department Prenetations

- Safety Net Programs and Hospital Reports Update. – Nancy Dolson, Special Financing Division Director
- Medicaid Provider Rate Review Process – Michelle LaPlante, Rate Review Stakeholder Relations Specialist

## Department Updates

- Department Updates/Questions – Adela Flores-Brennan, Medicaid Director

## The meeting was adjourned at 12:02 p.m.

The next scheduled meeting of the Medical Services Board is at 9:00 a.m. on Friday, March 8, 2024 at 303 East 17th Avenue 11th Floor Conference Room, Denver, CO 80203.

Reasonable accommodations will be provided upon request for persons with disabilities. Please notify the Board Coordinator at 303- 866-4416 or [chris.sykes@state.co.us](mailto:chris.sykes@state.co.us) or the 504/ADA Coordinator [hcpf504ada@state.co.us](mailto:hcpf504ada@state.co.us) at least one week prior to the meeting.