



## INFORMATIONAL MEMO

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<b>TITLE:</b>	<b>RETAINER PAYMENT RECORD RETENTION</b>
<b>SUPERSEDES NUMBER:</b>	N/A
<b>EFFECTIVE DATE:</b>	<b>APRIL 23, 2021</b>
<b>DIVISION AND OFFICE:</b>	<b>BENEFITS AND SERVICES MANAGEMENT, OFFICE OF COMMUNITY LIVING</b>
<b>PROGRAM AREA:</b>	<b>HOME AND COMMUNITY-BASED SERVICES (HCBS) WAIVERS</b>
<b>KEY WORDS:</b>	<b>ADULT DAY SERVICES, ADS, DAY HABILITATION, SPECIALIZED HABILITATION, SUPPORTED COMMUNITY CONNECTIONS, PROVIDERS, PASAS, SH, SCC, HOME AND COMMUNITY-BASED SERVICES, HCBS, HABILITATION</b>
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### **Purpose and Audience:**

The purpose of this informational memo is to remind Home and Community-Based Services (HCBS) waiver providers who received retainer payments for Habilitation Services to keep detailed records on how those retainer payment funds were used and expended on COVID-19 issues and to serve individuals.

### **Information:**

Colorado received our first Appendix K Amendment approval for our Home and Community-Based Services (HCBS) waivers on March 23, 2020 with an effective date of March 10, 2020. Within this Appendix K Amendment, Colorado received approval from the Centers for Medicaid & Medicare Services (CMS) to authorize Retainer Payments for Habilitative Services.

On June 30, 2020, CMS released detailed [guidance](#) on Retainer payments that included that Retainer payments are limited to three (3) 30-day periods for Habilitative Services.

- CMS has interpreted this to be a maximum of 18 weeks for most services since most services are not typically provided outside of the five (5) day work week.
- Colorado worked hard to begin retainer payments as quickly as possible to start March 13, 2020.
- Under the CMS policy of 18 weeks, Colorado had to end retainer payments on July 17, 2020.

The Department of Health Care Policy & Financing (Department) would like to remind HCBS waiver providers who received retainer payments for Habilitation Services to keep detailed records on how those retainer payment funds were used. Per the Provider Participation Agreement, a "provider shall maintain records for six (6) years unless an additional retention period is required under state or federal regulations, such as an audit started before the six (6) year period ended or based on a specific contract between the Provider and the Department."

Further, if providers did lay off employees and collected retainer payments, the provider will need to be able to demonstrate how those retainer payment funds were used and expended on COVID-19 issues and to serve individuals.

Lastly, if providers received loan payments in addition to retainer payments, they need to keep records on how these funds were not used for duplicative services.

**Attachment(s):**

[Provider Participation Agreement](#)

[CMS June 20, 2020 FAQ](#) (Updated January 6, 2021)

**Department Contact:**

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