



COLORADO

Department of Health Care
Policy & Financing

OPERATIONAL MEMO

OPERATIONAL MEMO NUMBER: HCPF OM 19-021

TITLE: HOME AND COMMUNITY BASED SERVICES (HCBS) CHILDRENS EXTENSIVE SUPPORT (CES) WAIVER OPERATIONAL GUIDANCE

SUPERSEDES NUMBER: N/A

ISSUE DATE: MAY 28, 2019

EFFECTIVE DATE: APRIL 19, 2019

DIVISION AND OFFICE: OFFICE OF COMMUNITY LIVING, BENEFITS AND SERVICES MANAGEMENT DIVISION

PROGRAM AREA: HOME AND COMMUNITY BASED SERVICES

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KEY WORDS: HCBS-CES, CES ELIGIBILITY

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Purpose and Audience:

The purpose of this Operational Memo is to issue guidance from the Department of Health Care Policy & Financing (the Department) regarding eligibility criteria for the Home and Community-Based Services – Children’s Extensive Support (HCBS-CES) waiver. This memo is targeted to members receiving services through the HCBS-CES waiver, members’ families, case managers, case management agencies, advocates, State of Colorado contracted reviewers, and any other stakeholder involved with the HCBS-CES waiver.

Background:

The HCBS-CES waiver serves children with an intellectual or developmental disability or developmental delay who require a level of care comparable to that of an individual eligible for services through an Intermediate Care Facility for Individuals with Intellectual and Developmental Disabilities (ICF/IDD). Additionally, a child must meet the following targeting criteria: The child demonstrates a behavior or has a medical condition that requires direct human intervention, more intense than a verbal reminder, redirection or brief observation of medical status, at least once every two hours during the day and on weekly an average of once every three hours during the night. The behavior or medical condition must be considered beyond what is typically age appropriate.

The services offered through the HCBS-CES waiver aim to ensure a child can remain living in the community of their choice, most often with a family or caregiver, instead of

in an ICF/IDD. The Department understands that being able to access this waiver is vitally important to a child’s ability to live in the community.

The HCBS-CES waiver has been in operation for over 10 years. Over the years, there have been many iterations of trainings and interpretations of the waiver regulations found at 10 CCR 2505 - 10 8.503. It has been brought to the Department’s attention that interpretation and operationalization of the eligibility criteria found at 10 CCR 2505 – 10 8.503.30 varies between entities that determine eligibility for or assist a member in applying for the HCBS-CES waiver.

The Department strives to ensure that waiver eligibility is clear and interpreted uniformly when determining access to necessary services for children and families. This memo intends to mitigate misinformation and misinterpretation of current regulations that govern eligibility criteria for this waiver. The guidance in this memo is to be implemented immediately upon this memo’s effective date and more clearly outlines the Department expectations regarding HCBS-CES waiver eligibility criteria and its interpretation.

Information/Procedure:

Attached to this memo is a document that outlines the eligibility criteria for the HCBS-CES waiver in a more easily understood, plain language, condensed manner. The document called “The Children’s Extensive Support Program Information,” does not replace the eligibility rules found at 10 CCR 2505 – 10 8.503.30.

Further, the Department is issuing guidance regarding the following regulations to be used when determining the eligibility of an individual for the HCBS – CES waiver:

<p>Regulation from Code of Colorado Regulations 10 CCR 2505 – 10 8.503.A.8.a. - c.</p>	<p>Department Clarification and Guidance</p>
<p>8. Be determined by the Utilization Review Contractor (URC) to meet the additional targeting criteria eligibility for HCBS-CES waiver. The additional targeting criterion includes the following:</p>	<p>The Department maintains a contract with the URC to review the initial and annual reassessment of a child’s eligibility for the HCBS-CES waiver, which is conducted by the case manager.</p>
<p>a. The individual demonstrates a behavior or has a medical condition that requires direct human intervention, more intense than a verbal reminder, redirection or brief observation of status, at least once every two hours during the day and on a weekly average of once every three hours during the night. The behavior or medical condition must be considered beyond what is typically age appropriate and due</p>	<p>The Department considers nighttime hours to be 8:00 p.m. – 8:00 a.m., as would be typical of a child peer. This means that the direct human intervention should occur approximately six times throughout the waking hours of a day. Throughout nighttime hours, the child would require human intervention at a minimum of four times, and this occurs four nights a week or more. The</p>

<p>to one or more of the following conditions:</p>	<p>Department would consider a child who wakes and remains awake during the nighttime hours for periods greater than 3 hours needing direct human intervention during this time to have met this criterion. Additionally, the case manager and family shall document to the best of their abilities the averages of atypical sleep patterns for the cycle that best describes the behaviors of the child. The family and case manager shall use the length of time necessary to demonstrate an average. For example, if a child's sleep pattern cycles on a quarterly basis, describe the atypical sleep pattern for this time frame with accurate averages. If the cycle of sleep patterns occurs on a weekly basis, document the nights atypical sleep patterns occurred versus nights of typical sleep.</p>
<p>i. A significant pattern of self-endangering behavior or medical condition which, without intervention will result in a life-threatening condition or situation. Significant pattern is defined as the behavior or medical condition that is harmful to self or others as evidenced by actual events occurring within the past six months,</p>	<p>The Department would consider the following examples of behavioral conditions which could meet this criteria when exhibited by an aged youth and not a typical need of a peer: elopement, wandering, fire setting, climbing or jumping with high risk of injury (examples being buildings, tall structures, or other restricted access areas), Pica, chemical mixing, leaving car restraint, interfering with driver of vehicle, head banging or self-injurious behaviors (hitting self with fist to cause bleeding, bruising, etc.), inappropriate dress for weather, lack of kitchen or household safety, etc. The examples provided are not an exhaustive list. Other behavioral conditions may meet this eligibility criteria and should be reported.</p>
<p>ii. A significant pattern of serious aggressive behavior toward self, others or property. Significant pattern is defined as the behavior is harmful to self or others, is evidenced by actual events occurring within the past six months, or</p>	<p>The Department would consider the following examples of aggressive behaviors which could meet this criteria when exhibited by an aged youth and not a typical behavior of a peer: biting, hitting, pinching, aggression towards</p>

	<p>animals, destruction of home contents, pushing, and choking others, fascination with sharp objects, spitting, head butting, inappropriate urination or smearing of feces, and property damage, etc. The examples provided are not an exhaustive list. Other aggressive behaviors may meet this eligibility criteria and should be reported.</p>
<p>iii. Constant vocalizations such as screaming, crying, laughing or verbal threats which cause emotional distress to caregivers. The term constant is defined as on the average of fifteen (15) minutes each waking hour.</p>	<p>The Department considers the following to be examples of constant vocalizations distressing to caregivers: laughing, crying, yelling, shrieking, grunting, swearing, repeating others, repeating self, etc. The examples provided are not an exhaustive list. Other constant vocalizations may meet this eligibility criteria and should be reported. The frequency of vocalizations includes every waking hour for twelve hours, and lasting, in total, longer than 15 minutes out of each hour.</p>
<p>b). The above conditions shall be evidenced by third party statement or data that is corroborated by written evidence that:</p> <p>i) The individual's behavior or medical needs have been demonstrated, or</p> <p>ii.) In the instance of an annual reassessment, that in the absence of the existing interventions or preventions provided through the HCBS-CES waiver that the intensity and frequency of the behavior or medical condition would resume to a level that would meet the criteria listed above.</p>	<p>As part of the Department's waiver agreement, the Centers for Medicare and Medicaid Services (CMS) require an annual reassessment to ensure the child continues to meet the level of care required for waiver participation. The Department understands that at the time of an annual reassessment, the child may have interventions in place that allow, as an example, the child to sleep through the nighttime hours more regularly than reported on their initial assessment and enrollment onto the waiver. The reassessment should accurately reflect the interventions that have been provided through the HCBS-CES waiver or State Plan services that have allowed for the individual's medical conditions or behaviors to improve, such as sleeping continually through the night. The reassessment should accurately and clearly reflect what the outcome for the child may be if they no longer had access to such services and interventions. The</p>

	<p>Department stresses that services and/or interventions, medical or behavioral, should not be withheld from a child for fear their medical and/or behavioral condition may improve and waiver eligibility terminated.</p>
<p>c). Examples of acceptable evidence shall not be older than six months and shall include but not be limited to any of the following: i.) Medical records, ii) Professional evaluations and assessments, iii.) Insurance claims, iv) Behavior pharmacology clinic reports, v.) Police reports, vi) Social Services reports, or vii.) Observation by a third party on a regular basis.</p>	<p>The Department requires the report of behavioral and/or medical conditions to be evidenced by a third party. The information gathered and included in the ULTC 100.2 and HCBS-CES waiver application is most frequently provided by a parent, guardian or caregiver of a child. The following are considered to be examples of third party observation on a regular basis: classroom notes from a teacher or educational professional, any medical record, insurance claims (for destruction of property for example or medical treatment rendered), a signed statement from a neighbor, family member, a family friend, friend from church, caregivers employer, or anyone who can provide a statement that the behavior and/or medical condition exists and they have seen it or its effects. The Department emphasizes that third-party statements or documentation do not need to be completed by a specialist, licensed medical or behavioral specialist.</p>

The Department values the feedback and input of all stakeholders. We will continue to take feedback and input to refine HCBS waivers and other programs and benefits in the future.

Attachment(s):

“The Children’s Extensive Support Program Information” document

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