



## OPERATIONAL MEMO

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| <b>TITLE:</b>                                  | <b>CASE MANAGEMENT REDESIGN: CONFLICT-FREE CASE MANAGEMENT WAIVER</b>   |
| <b>SUPERSEDES NUMBER:</b>                      | N/A   |
| <b>EFFECTIVE DATE:</b>                         | <b>JANUARY 20, 2023</b>   |
| <b>DIVISION AND OFFICE:</b>                    | <b>CASE MANAGEMENT AND PROGRAM QUALITY<br/>OFFICE OF COMMUNITY LIVING</b>   |
| <b>PROGRAM AREA:</b>                           | <b>CASE MANAGEMENT REDESIGN</b>   |
| <b>KEY WORDS:</b>                              | <b>CASE MANAGEMENT REDESIGN, CMRD,<br/>CONFLICT-FREE CASE MANAGEMENT, CFCM,<br/>ONLY WILLING AND QUALIFIED PROVIDER,<br/>OWQP</b> |
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### **Purpose and Audience:**

The purpose of this Operational Memo is to inform all stakeholders of the Colorado Department of Health Care Policy & Financing (Department) process for exceptions to conflict-free case management requirements starting no sooner than Nov. 1, 2023, and no later than July 1, 2024, for Case Management Redesign (CMRD) implementation as required by [HB 21-1187](#).

### **Background:**

CMRD refers to several initiatives aimed at simplifying access to long-term services and supports, creating stability for the case management system, increasing and standardizing quality requirements, requiring accountability, and achieving federal compliance.

Conflict-free case management is required by the Centers for Medicare & Medicaid Services (CMS) to maintain federal match funding and to come into compliance with the

Home and Community-Based Services (HCBS) Final Settings Rule. Exceptions to conflict-free case management are allowed by CMS when no other willing or qualified providers exist in a defined service area. Case Management Agencies (CMAs) will be selected for each defined service area through a competitive solicitation process. Each CMA will be required to serve all waivers for their defined service area, including both children and adult waivers and state general fund programs.

**Information:**

The CMA may be granted a Conflict-Free Case Management Waiver (formerly known as a rural exception) by the Department to provide specific direct services within their defined service area to maintain eligible service providers in rural and frontier areas across Colorado. The CMA will need to comply with the following:

1. The CMA shall submit a formal application (attached) for a Conflict-Free Case Management Waiver no later than March 1, 2023. The CMA shall receive formal notification from the Department via email of the receipt of the application within 10 business days. The Department will notify applicants of their approval or denial no later than May 1, 2023.
  - a) If the applicant submits a response to the CMA Request for Proposal (RFP), the Department will notify the agency of approval or denial prior to the delivery of intent to award letters to RFP respondents.
  - b) If the Conflict-Free Case Management Waiver application is denied, the Department will coordinate with the CMA for a transition period, if necessary.
2. If a CMA requires a waiver between CMA contract cycles, the CMA must submit the application for the Conflict Free Case Management Waiver and maintain the documentation for the next RFP submission.
  - a. If the Conflict-Free Case Management Waiver application is approved, the Department will coordinate with the CMA for next steps in implementation and execution, if necessary.
  - b. If the Conflict-Free Case Management Waiver application is denied, the Department will coordinate with the CMA for a transition period within their contract period, if necessary.

3. The CMA that is granted a Conflict-Free Case Management Waiver, they shall provide an annual report to the Department subject to Department approval that includes but will not be limited to:
  - a. a summary of individuals participating in direct services and case management;
  - b. how the CMA has ensured informed choice; and
  - c. how the CMA continues to support the recruitment of willing and qualified providers in their catchment area.
4. The direct service provider functions and CMA functions must be administratively separated (including staff) with safeguards in place to ensure a distinction between direct services and case management exists as a protection against conflict of interest.
5. If a new service provider(s) become available in the area, the CMA may continue to provide direct services while the Department and the CMA support the alternate provider(s) in stabilizing and expanding to accommodate all needs in that service area.

Note: "Stabilize" means the Department and the provider(s), along with CMA collaboration, agree that the provider(s) have demonstrated both a history of providing services (3 years minimum) and the capacity to expand their services to serve the members in that catchment area for that service. The Department will analyze data on service utilization and provider availability in the catchment area for every CMA contract cycle to grant waivers and assess provider capacity in each catchment area. Based on this data, the Department will work with the local service agencies and CMAs to ensure stabilization and expansion is happening in each defined service area, as needed. This will minimize the disruption to members should agencies discontinue services.

6. If other service providers are available in the area, the case manager must document the offering of choice of provider in the Care and Case Management IT system.
7. To ensure conflict of interest is being mitigated by the CMA, the Department will conduct annual quality reviews that will include but not be limited to, reviews of documentation of provider choice and informed consent for services.

This policy fulfills requirements in C.R.S. 25.5-6-1703(6). Rules and regulations pertaining to the above requirements will be promulgated no later than Nov. 1, 2023. Until that time, this memo will serve as the operational guide for the process for CMAs to obtain a waiver for Conflict-Free Case Management.

**Attachment(s):**

Conflict-Free Case Management Waiver Application

**Department Contacts:**

[HCPF HCBS Questions@state.co.us](mailto:HCPF_HCBS_Questions@state.co.us)