



**COLORADO**

Department of Health Care  
Policy & Financing

## FORMAL RECOMMENDATION RESPONSE SUMMARY

Issued: February 24, 2023

Issued by: Participant Directed Programs Unit

### 1. Background

The Participant Directed Programs (PDP) Unit received a Formal Recommendation from the Participant Directed Programs Policy Collaborative (PDPPC) regarding Consumer Directed Attendant Support Services (CDASS) and In-Home Support Services (IHSS) on November 22, 2022. This recommendation was submitted for a vote by the PDPPC Attendant Care in Hospital Subcommittee on November 16, 2022.

PDPPC Policy Recommendation: The PDPPC asks HCPF to move forward in developing policy change and procedure to allow the payment of attendants within the IHSS and CDASS programs while a consumer is in the hospital in accordance with The Care Act. We would ask that HCPF move forward with an administrative change or Medicaid waiver amendment as soon as possible as dictated by CMS.

### 2. Policy Review

The Unit has evaluated the recommendation to allow attendant care to be provided by CDASS and IHSS attendants in a hospital setting, paid through the member's prior authorized Home and Community Based Services (HCBS). The Unit consulted with the Centers for Medicare and Medicaid (CMS) and reviewed the CARES Act referenced in the recommendation. Finally, the Unit consulted with Department staff overseeing Medicaid policies and payments to hospitals.

Section 3715 of the CARES Act allows state Medicaid programs to cover certain home- and community-based services, self-directed personal assistance services, and home- and community-based attendant services that are provided in acute care hospitals. The section specifies, among other criteria, that such services may not be duplicative of, or serve as a substitute for, necessary or obligatory hospital services. While the CARES Act allows for the



coverage of services in the hospital, they may not duplicate services provided by the hospital.

Hospitals must provide therapeutic, surgical, diagnostic, medical and rehabilitative services to patients (10 CCR 2505-10 Section 8.300.1.M). Hospitals are reimbursed for these services via the Diagnosis Related Group (DRG) payment method. DRG is a bundled prospective payment system that reimburses based on the resource intensity required for treating patients with similar diagnoses. Services necessary to accommodate the member's diagnoses and related personal care and skilled health services are included within the hospital payment methodology.

### 3. Department Response

The Department does not have federal authority in the 1915(c) waivers or the State Plan under Title XIX of the Social Security Act to permit paid CDASS or IHSS attendant care while a member is hospitalized. The Department does not have budget or federal authority to pursue the policy and operational changes requested.

In addition, the Department does not have the authority to change the Department's regulations regarding payment methodology for hospitals. If attendants are paid for services through CDASS or IHSS while the member is in the hospital, this is a duplicative payment, which is specifically prohibited within the CARES Act. In some instances, hospitals may subcontract with entities for staffing needs; the Department acknowledges that this may be a potential solution for CDASS and IHSS participants who aim to provide care in the hospital setting.

The Department commits to collaborating with stakeholders, including Department staff overseeing hospitals and rates, and Colorado Department of Public Health and Environment (CDPHE), to learn more about members' reported experiences in hospitals. Members are encouraged to share experiences with attendant care needs during hospitalization with the Department via the [HCPF\\_PDP@state.co.us](mailto:HCPF_PDP@state.co.us) inbox with the subject including "PDPPC Attendant Care in Hospitals". Additionally, a listening session has been scheduled for interested stakeholders to share experiences and feedback with the Department.

#### **PDPPC - Attendant Care in Hospital Listening Session**

Wednesday, March 8, 2023

9:00 a.m. to 10:30 a.m.

Google Meet: [meet.google.com/gtd-wmgk-qwv](https://meet.google.com/gtd-wmgk-qwv)

Members may file a complaint with the Colorado Department of Public Health and Environment (CDPHE) if the necessary services are not provided to members in the hospital. CDPHE investigates facilities for quality of care, patient/ rights, and building and equipment



safety when a complaint is made. More information about health facilities complaints can be found at [cdphe.colorado.gov/health-facilities-complaints](https://cdphe.colorado.gov/health-facilities-complaints).

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