



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
July 14, 2023

Call to Order

Mr. Honea called the meeting to order at 9:01 a.m.

Roll Call

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

A. Members Present

Laura Carroll, Simon Hambidge, Morgan Honea, James McLaughlin, William Kinnard, Idalia Massa-Carroll, Barry Martin and Christina Mulkey.

B. Members Excused

Cecile Fraley, An Nguyen and Vincent Scott

C. Staff Present

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

Announcements

Mr. Honea announced the next Medical Services Board Meeting will be held at 303 E 17th Ave 11th floor Conference Room, Denver, CO 80203 on Friday, August 11, 2023 at 9:00 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

Dr. Martin moved for the approval of the June minutes. The motion was seconded by Ms. Carroll. The minutes were approved, 8:0.

Update – Kim Bimstefer, Executive Director

Rules

A. Emergency Adoption

Document 06, MSB 23-07-05-A, Revisions to the Medicaid Assistance Rule Concerning the Health Care Affordability and Sustainability Fee, Section 8.3000

Nancy Dolson, Special Financing Division, presented the rule and explained rule is an emergency because of an unexpected issue. Issues with CHASE payments to Parkview show significant financial losses. Parkview is a Pueblo area safety net hospital and necessary for Medicaid members. A review of what CHASE does was given. Rule needs to be revised to allow Parkview to receive payments with UC Health. CHASE Board unanimously adopted changes.

Board Discussion – Board discussion included a review of the CHASE Board concerns. A question if other hospitals are coming to a similar agreement or is a one-off approach a way to write rule was asked. Equity issue for hospitals was discussed and the many levels of payments, based on federal requirements and need in community were reviewed. A discussion on the classifications of hospitals for payments was provided. The Department is looking into language to avoid a perceived carve out, the CHASE Board is looking into the types of classifications. UC Health is being accountable to maintain the level of care to the community, reporting requirements assist in accountability.

Public Testimony – NA

Dr. Hambidge moved for the emergency adoption of Document 06. Dr. Mulkey seconded the motion.

The Board voted the emergency adoption of Document 06, 8:0.

Document 07, MSB 23-06-09-A, Revision to the Medical Assistance Rule Concerning Updates to the Agreement Not to Sponsor for Section 8.100.3.D.6

Nicole Mason, Eligibility Policy Section, presented the rule and explained the rule is in response to recent legislation, SB 23-1117. This change will remove the rule requirement for legal immigrants to agree to execute an affidavit of support when enrolling or receiving Medical Assistance. By removing this requirement, legal immigrants who receive Medical Assistance will no longer face the risk of losing their benefits if they choose to sponsor someone for immigration purposes. A review of stakeholder engagement was provided.

Board Discussion – NA

Public Testimony – Bethany Pray – Colorado Center on Law & Policy – strongly support the rule change. Appreciate the change to the law.

Dr. Martin moved for the emergency adoption of Document 07. Dr. Hambidge seconded the motion.

The Board voted the emergency adoption of Document 07, 8:0.

Document 08, MSB 23-06-20-A, Revision to the Medical Assistance Act Rule concerning Bariatric Surgery, Section 8.300.3.C

Russ Zigler, Operations Section, presented the rule and explained legislation requires revision. Body Mass Index is no longer a determinant in medical necessity.

Board Discussion – NA

Public Testimony – NA

Ms. Carroll moved for the emergency adoption of Document 08. Dr. Martin seconded the motion.

The Board voted the emergency adoption of Document 08, 8:0.

B. Final Adoption by Consent Agenda

Document 01, MSB 22-12-13-A, Revision to the Medical Assistance Act Rule Concerning Gender-Affirming Care, Section 8.735

Document 02, MSB 23-03-20-A, Revision to the Medical Assistance Act Rule concerning updates to the Transitional Medical Assistance for section 8.100.4.I.3.b

Dr. Martin moved for the final adoption of Document 01 & 02. Ms. Carroll seconded the motion.

The Board voted the final adoption of Document 01 & 02, 8:0.

C. Final Adoption Agenda

Document 03, MSB 23-03-09-A, Revision to the Medical Assistance Act Rule concerning the Coverage of OTC Opioid Antagonists, Section 8.800.4.D

Korri Conilogue, Pharmacy Office, presented the rule and reviewed changes from last month. Rule allows for over-the-counter pharmaceuticals, the list of vitamins and minerals is not comprehensive and the rule lists broader categories of products.

Board Discussion – NA

Public Testimony – NA

Dr. Hambidge moved for the final adoption of Document 03. Ms. Carroll seconded the motion.

The Board voted the initial approval of Document 03, 8:0.

D. Initial Approval

Document 04, MSB 23-02-09-A, Revision to the Medical Assistance Act Rule concerning Electronic Consultation (eConsults), Section 8.095

Russ Zigler, Operations Section, presented the rule and explained eConsults must be initiated through a provider and transferred through the eConsult platform. If a face-to-face meeting occurs, no payment for the eConsult will occur. A State Plan Amendment is in process.

Board Discussion – Board discussion included how the process for eConsults reimbursement will work. A response from a specialty provider to a primary provider that does not require a face to face meeting and is entered in the EConsult platform and closed. The eConsult platform is still in process and a Feb 2024 rollout is planned. The Board recommended the Electronic Health Record (EHR) technology be utilized instead of an additional platform which makes for more administrative burden on providers. The Department is looking to integrate EHR. Many providers have HER technology, another layer creates a burden. A question about CMS requirements for primary only was asked, emergency care can benefit from eConsult. The Department will research and answer that question.

Public Testimony – NA

Dr. Hambidge moved for the initial approval of Document 04. Dr. Martin seconded the motion.

The Board voted the initial approval of Document 04, 8:0.

Document 05, MSB 23-04-12-B, Revision to the Medical Assistance Rules Mental Health Transitional Living Homes, Section 8.509.50

Meg Janeba and Cassandra Keller, Community Options Benefits Section, presented the rule and explained there are two levels of service that will be provided within these settings. Under the Community Mental Health Supports (CMHS) Home and Community Based Services (HCBS) waiver, the Department has developed a new residential service titled "Mental Health Transitional Living homes (MHTL). This residential service will include protective oversight and supervision; assistance with medication; community participation; recreational and social activities; intensive case management/care coordination; housing planning and navigation services as appropriate for clients experiencing homelessness/at risk for homelessness; life skills training/ADL support as needed; and therapeutic services, which may include but is not limited to individual and group therapy, medication management, etc. Only the Level 1

homes will be an HCBS benefit and available only to members who are on the CMHS waiver.

Board Discussion – Board discussion included how very excited to see the rule move forward. A discussion about if the capacity is enough was held and determined that unfortunately the need is beyond capacity but this is a good starting point.

Public Testimony – NA

Ms. Carroll moved for the initial approval of Document 05. Mr. McLaughlin seconded the motion.

The Board voted the initial approval of Document 05, 8:0.

E. Consent Discussion

Mr. Hambidge motioned to add Document 04 & 05 to the Consent Agenda.

The Board voted to add Document 04 & 05 to the Consent Agenda; 8:0.

F. Closing Motion

Ms. Carroll moved to close the rules portion of the agenda. The motion was seconded by Dr. Hambidge.

Open Comments

Galia Spychalska – parent advocate – formerly asking for whistle blower protection. Fear of losing HCBS services, still having PDN denial issues. 20% of denial rates from agencies are from no longer submitting pars. Request PDN pause again. A lot of disinformation coming from the Department. The Department responded with clarifying language regarding statutory authority for various programs that were listed in the comments. It is very confusing, but Long Term Home Health authority lies in the State Plan; Home and Community Based Services authority is from a 1915c waiver and Private Duty Nursing is authorized through the State Plan. The State Plan and waiver work together to provide care, but the authority comes from different federal authority. The Department cannot break data down to an individual level as it is against HIPAA.

Maureen Welch – Navigating Disability Colorado – submitted a letter to the Board with many items. That letter is posted on the Medical Services Board website and was distributed to the Board members.

Department Updates

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

The meeting was adjourned at 11:12 a.m.

The next scheduled meeting of the Medical Services Board is at 9:00 a.m. on Friday, August 11, 2023 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 or the 504/ADA Coordinator hcpf504ada@state.co.us at least one week prior to the meeting.