



December 7, 2023

Members of the Medical Services Board:

I appreciate the opportunity to provide written testimony on **Document 7, MSB 23-03-13-A** concerning Case Management, Member Rights and Responsibilities, Home and Community Based Services, and Provider Agency Requirements, Section 8.7000.

My name is Kristie Braaten and I have 30 years of experience in Intellectual and Developmental Disabilities services in Colorado. While most of my time has been spent providing or overseeing direct services and case management services, I also have six years of service to the Division for Developmental Disabilities under CDHS and the Office of Community Living (OCL) at HCPF.

This rule as written requires significant additional work before it is ready for public use, both in terms of policy implications, as well as in formatting, clarity, and ease of use. I will focus my testimony on my three most significant concerns.

First, the Department does not plan to repeal existing rules until some unspecified time after the Case Management Redesign efforts are finalized in July 2024, obligating stakeholders to two sets of rules that conflict. Stakeholders engaged in this rule making process under the impression that the existing rules would be repealed as a part of the adoption of new rules. I am not concerned about stakeholders navigating two separate sets of rules for six months; I am concerned about six months becoming nine, then twelve, then more. I am concerned about how surveyors at CDPHE will navigate provider compliance with a new set of rules that are inconsistent with existing rules. I am concerned that this was not addressed during the stakeholder process. I submit that these rules are ready for adoption when the Department and stakeholders are confident that ONE set of rules sufficiently addresses the regulatory needs of our industry.

Second, the scope of this rule revision/rewrite/relocation far exceeds what was necessary for system changes associated with Case Management Redesign. Understaffed, recovering from a pandemic, and juggling 62 ARPA projects, the Department chose to expand the scope of this rule revision/relocation to include not only those rules associated with Case Management Services and Community Centered Boards, but also those associated with 10 HCBS waiver programs, and a variety of state general funded programs. Stakeholders requested the Department limit the scope to only what was necessary for Case Management Redesign, and they chose to move forward with the effort before us today. While it is too late to limit the scope, I hope this body considers delaying the initial adoption of this rule to give stakeholders and fair shot at completing a comprehensive analysis of the nearly 300-page document we have had three weeks to review (inclusive of the Thanksgiving holiday).

And last, while the Department has included many policy changes throughout the rule not necessary for Case Management Redesign, they have failed to address existing policy issues identified during the



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stakeholder process, indicating they would fix them after Case Management Redesign efforts conclude. My biggest concern is about the conflict between existing and proposed rules regarding members' rights. Existing regulations are not compliant with federal regulations, and stakeholders identified these conflicts in a stakeholder meeting in November 2022. Although the Department has indicated in their stakeholder feedback record that the feedback was “resolved”, they did not address the conflict, planning to do so at an unspecified time in the future. So, rather than mitigate the conflict, they simply refer to the existing rule, thus perpetuating a known policy conflict.

I understand the how much work goes in to revising a regulation. I also understand how much stakeholders rely on regulation. We deserve clarity.

I appreciate your consideration of my testimony. Please know that I have shared all my concerns directly with the Department, so they are fully aware of the concerns noted in this communication.

Please feel free to reach out with any questions; I am happy to engage in further discussion.

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