



COLORADO  
CROSS-DISABILITY  
COALITION

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June 12, 2020

TO: Members of the Medical Services Board

Cc: Tracy Johnson, Medicaid Director, Kim Bimestefer, Executive Director

***RE: Home Health and PDN UM/Communication Problem***

Dear Members of the Medical Services Board:

The organizations listed below are extremely concerned about HCPF plans to send out what we believe are two notices with confusing deadlines, regarding home health services.. Basically, because notices that were not legally sufficient reducing or denying Private Duty Nursing (PDN) and Certified Nurse Aid (CNA) services were sent out the second half of 2019, all services had to be restored pending proper notice. Services requested in the first half of 2020 were only provisionally approved while the improved notice was being developed. The requirement for proper notice has been in effect since the 70's landmark Supreme Court Case Goldberg V. Kelly. Additional attention to notices led by an interim committee in 2017 led by former representative Dianne Primavera has also been top of mind.

In addressing the improper notices, services were restored, which we appreciate, but also all PARS were set to end on June 30<sup>th</sup>, even for clients whose services were in fact approved during the period in question. Now the situation is as follows:

- a) Clients will get two notices with two dates-one is about the restored services ending and the other is about the results of the "new" PAR submission for services after July 1, 2020. There will be confusion about which notice is important, which to appeal, etc.

NOTHING ABOUT us, WITHOUT us...EVER!

b) Clients who may be asked to “downgrade” to a certified nurse assistant level of care, which requires nurse delegation, are being given an impossibly short time to set this up. If, for example, PDN services are denied, the client is not automatically approved for a different level of services and a new PAR would have to be submitted for CNA services, causing gaps in care. Agencies also will not have time to make this work.

c) As schools begin to figure out how to serve all kids, including kids with severe health conditions, they are counting on these children coming with nurses and may not be comfortable accommodating them without this same level of care.

d) Families have been without most of their typical supports such as school, dealing with the stress of either unemployment or working at home while simultaneously caring for their children, and all of the other stresses that have been caused by the pandemic.

e) Disrupting nursing care of children who are disabled enough to have qualified for private duty nursing, which is basically hospital level care in the home, is likely to lead to increased hospitalizations of children. Do we really want medically fragile children having to go to a hospital during a pandemic?

f) There are likely to be large numbers of administrative appeals as a result of the shortened PAR periods and two sets of notices.

We just recently became aware of the fact that all of the PARS will end on July 01, 2020. We are begging you as the appointed body that represents all of us throughout the state to use your authority to require the following information be provided openly before these actions are continued:

- 1) How many PDN and CNA clients are going to be affected?
- 2) Where are the clients, and if they are moving to a lower level of care, are appropriate lower-level providers available in the counties where they will be needed?

- 3) Can all medically necessary nursing services be delegated by an RN to a CNA or other professional? Which types of care are generally being assigned to certified nurse aides?
- 4) How many nurses in the state are willing to delegate these functions? Each nurse would have to delegate to between 2-6 C.N.A.s per client to account for scheduling and backup. Is there a match between where the nurses are and where the clients are?
- 5) How long does it take for the delegation process?
- 6) Will the Board of Nursing agree not to go after the license of a nurse that delegates to C.N.A.s if the reason was that HCPF denied PDN?

We also would like you to require that the department put the following in writing:

- 1) Who is responsible for arranging the delivery of care at the lower level? If this does not happen, who at HCPF should be the contact?
- 2) Is there capacity at the Office of Administrative Courts and the HCPF office of appeals to get through all hearings in the required 90 day timeframe?

Finally, we would like to suggest that HCPF stagger these cases and not try to disrupt the care of this unknown number of children and some adults who are the most vulnerable among us all at the same time. People have been assured that their Medicaid will not be disrupted during the public health emergency. While HCPF might have meant that to be about eligibility the message has been that in-home services will continue.

Again, we only recently learned about this impending disaster which is why we have not reached out earlier and why there are not more than 22 organizations signed onto this letter. We appreciate your consideration.

- ✓ AOI Homecare
- ✓ Atlantis Community
- ✓ Colorado Children's Campaign

- ✓ Colorado Cross Disability Coalition  
Civil Rights Education and Enforcement Center (CREEC)
- ✓ Colorado Consumer Health Initiative
- ✓ Disability Law Colorado,
- ✓ Family Voices of Colorado
- ✓ PASCO
- ✓ Parent to Parent of Colorado
- ✓ Southwest Center for Independence
- ✓ The Arc of Adams County
- ✓ The Arc of Arapahoe and Douglas Counties
- ✓ The Arc of Colorado
- ✓ The Association for Community Living – Boulder
- ✓ The Arc- Jefferson, Clear Creek & Gilpin Counties'
- ✓ The Arc of Mesa County
- ✓ The Arc Pikes Peak Region
- ✓ The Arc of Pueblo
- ✓ The Arc of Southwest Colorado
- ✓ The Arc of Weld County
- ✓ The Colorado Developmental Disabilities Council
- ✓ The Independence Center of Colorado Springs