

Private Duty Nursing (PDN) Rule Review Stakeholder Engagement Meeting #5

Presented by: Candace Bailey,
HCBS Division Director

October 3, 2023



Purpose

The purpose of the Private Duty Nursing Rule Review stakeholder meeting is for advocates, providers, members, case managers, and other interested stakeholders to collaborate with and advise the Department as it reviews regulations pertaining to the Private Duty Nursing benefit.

[10 CCR 2505-10 Section 8.540](#)



Agenda

- HCPF Introductions
- Complete Attendance Form
- Meeting Guidelines
- Rule Revision Presentation
- Discussion
- Next Steps

Housekeeping

- Please mute when not speaking
- Raise hand and unmute yourself for questions, comments, or suggestions
- Use the Chat Box to enter questions, comments, or suggestions
- Please do not disclose Protected Health Information (PHI). We are unable to discuss specific cases during this meeting.

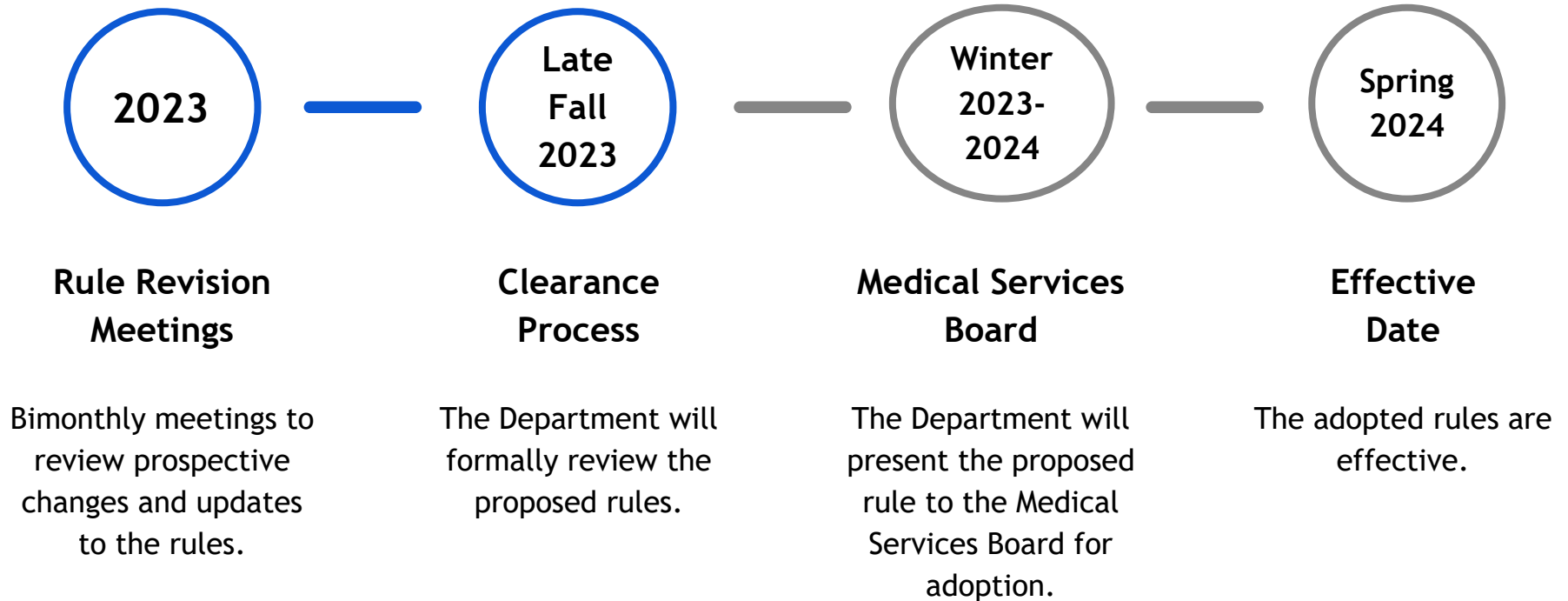
The team will answer questions and concerns as we are able but will need to take back some for deliberation. Thank you for your patience!

Send Further Questions, Comments, and Suggestions to: homehealth@state.co.us

Look for the webinar recording and other posted materials here: hcpf.colorado.gov/private-duty-nursing



Rule Revision Process



hcpf.colorado.gov/medical-services-board

Revision Goals

- Conduct a thorough review and update of the Private Duty Nursing (PDN) regulations by Spring 2024.
- In collaboration with stakeholders, we will revise language that is outdated or unclear. We will identify areas that need edits, rephrasing, clarification, removal, or restructuring.

For example:

- Adding relevant definitions to PDN rules
- Use best practices to clarify the process

Overview of PDN Rules

PDN rules can be found at the Colorado Secretary of State's Code of Colorado Regulations for the Department: [10 C.C.R. 2505-10, Section 8.540](#)

1. Definitions

2. Benefits - *reviewed Meeting #4*

3. Benefit Limitations - *reviewed Meeting #4*

4. Eligibility - *reviewed Meeting #4*

5. Application Procedures - *reviewed Meeting #4*

6. Provider Requirements - *reviewed Meeting #3*

7. Prior Authorization Procedures - *reviewed Meeting #1 and #2*

8. Reimbursement - *reviewed Meeting #2*



Overview of PDN Rules

Each meeting will address a section of the rule or a topic.

- In February 2023, we reviewed Section 8.540.7 - Prior Authorization Procedures, focusing on the documentation requirements.
- In April 2023, we focused on the remaining PAR components which included a description of the PAR submission process and 3rd party Utilization Management (UM) Contractor utilization review process. We also reviewed Section 8.540.8 on reimbursement.
- In June 2023, we reviewed the Provider Requirements section of the PDN Rule. This section is focused on the provider agency responsibilities when providing Private Duty Nursing services.
- In August 2023, we reviewed the Benefits and Eligibility section along with the Hospital Discharge Procedures, formerly the Application Procedures.
- In October 2023, we will review the Definitions section as well as the final draft of the complete rule.



General Considerations

As we review the rules, please remember:

- **Language and concepts discussed are *not* final**
- We are documenting your feedback and ideas
- Certain words will be changed throughout the document (i.e. *client* will change to *member*)
- In some cases, we will propose reorganizing sections to improve readability and clarity
- We will add definitions for common terms and spell out acronyms in the first instance of use
- We look forward to your feedback and participation!



Suggestions that remain under review/consideration...

- PDN-specific timelines incorporated in rule
- Include process to transfer a PAR between agencies
- Clarification of timelines for appeals
- Documentation requirements
- Clarify PAR expiration dates
- Review and discuss options for group ratios
- Clarify language about additional members in the home
- Further clarification of termination of services and procedures
- Clarification of denial timelines

Key to proposed changes:

Underlined = added language

Highlighted = renumbered or reorganized

~~Red lettering~~ = removed

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PROPOSED NEW DEFINITION

Continuous nursing means the required services are medically complex enough to require ongoing assessment, planning, and intervention by a licensed nurse on a continual basis and consistent with the nature and severity of the member's condition. This includes services that are provided to a member whose condition requires ongoing monitoring, assessment, and nursing interventions on a constant basis.

This definition is cited in the following sections of PDN rule: Eligibility (8.540.2.A.8.; 8.540.2.C.)
Prior Authorization Procedures (8.540.7.A.)



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PROPOSED NEW DEFINITION

Designated Representative means a person appointed by the member to act on their behalf for healthcare and treatment decisions as documented in the member's advanced healthcare directive or other comparable documentation.

This definition is cited in the following sections of PDN rule: Provider Requirements ((8.540.6.B.4.)
Utilization Review (8.540.7.D. 4.)



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PROPOSED DEFINITION REVISION

Family/In-Home Caregiver means an unpaid individual who assumes a portion of the ~~client's~~ member's Private Duty Nursing care in the home, when Home Health Agency staff is ~~not present~~ absent. A Family/In-Home Caregiver may either live in the ~~client's~~ member's home or go to the ~~client's~~ member's home to provide care.

This definition is cited in the following sections of PDN rule: Family/In-Home Caregiver Responsibilities (11.8.540.6.D.) Physician/Allowed Practitioner Role (8.540.6.F6.)



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PROPOSED NEW DEFINITION

Group Nursing means the provision of Private Duty Nursing services by a Registered Nurse or Licensed Practical Nurse to more than one member in a private home setting.

This definition is cited in the following sections of PDN rule: Benefit Limitations (8.540.D.6.)
Reimbursement Rates (8.540.8.F)



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PROPOSED DEFINITION REVISION

Home Health Agency means an an ~~public~~ agency or ~~private~~ organization ~~or~~ ~~part of such an agency or organization which~~ that is certified for participation as a Medicare Home Health provider under Title XVIII of the Social Security Act and licensed as a Class A provider through the Colorado Department of Public Health and Environment.

This definition is cited all throughout rule.



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PROPOSED NEW DEFINITION

Medical Necessity means a Medical Assistance program good or service as defined in Program Integrity rules (10 CCR 2505-10, 8.076.1.8). For children 20 and younger, this is defined in the Early and Periodic Screening, Diagnosis, and Treatment rules (10 C.C.R. 2505-10,8.280.1.)

This definition is cited in the following sections of PDN rule: Eligibility (8.540.2.A.8; 8.540.2.C.); Prior Authorization Procedures (8.540.7.A.)



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PROPOSED NEW DEFINITION

Medically Stable means the member's skilled-care medical needs are routine and not subject to frequent change because of health issues.

This definition is cited in the following sections of PDN rule: Physician/Allowed Practitioner Role
(8.540.6.F.)



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PROPOSED NEW DEFINITION

Nursing Assessment means an individualized comprehensive assessment completed by the Home Health Agency staff that accurately reflects the member's current health status and includes information that may be used to demonstrate the member's progress toward achievement of the desired outcomes. The comprehensive assessment shall identify the member's need for home care and meet the member's medical, nursing, rehabilitative, social, and discharge planning needs.

This definition is cited in the following sections of PDN rule: Eligibility (8.540.2.A.2.b.1) ; (8.540.4.C.3.); Prior Authorization Procedures (8.540.7.C.2.a)



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PROPOSED NEW DEFINITION

Physician or Allowed Practitioners means a physician, physician assistant (PA), nurse practitioner (NP), or clinical nurse specialist (CNS) who oversees the delivery of skilled care to a member within their scope of practice, in accordance with State law who is actively enrolled with Health First Colorado.

This definition is cited all throughout rule.

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PROPOSED DEFINITION REVISION

Plan of Care means a care plan developed by the Home Health Agency in consultation with the ~~client~~member, that has been ordered by the ~~attending~~ physician or allowed practitioner for the provision of services to a ~~client~~ member at his/her residence, and periodically reviewed and signed by the physician or allowed practitioner in accordance with Medicare requirements at 42 C.F.R. 484.18.

This definition is cited in the following sections of PDN rule: Physician/Allowed Practitioner Role (8.5.40.6.F.3.) ; Prior Authorization Procedures (8.540.7.C.2.)



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PROPOSED DEFINITION REVISION

Private Duty Nursing (PDN) means ~~face-to-face Skilled Nursing that is more~~ individualized skilled care that requires the application of continuous ~~than~~ ~~the~~ nursing care, including judgment, assessment, planning, intervening, and evaluation, provided in the ~~that is available under the~~ home setting by a registered nurse or a licensed practical nurse under the supervision of a registered nurse who is employed by or contracted with a licensed Home Health Agency. ~~health benefit or routinely provided in a hospital or nursing facility.~~

This definition is cited all throughout rule.

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NO CHANGES TO CURRENT DEFINITION

Re-Hospitalization means any hospital admission that occurs after the initial hospitalization for the same condition.

This definition is mentioned in the following citations: Provider Responsibilities
(8.540.6.C.)



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PROPOSED NEW DEFINITION

Skilled Nursing Tasks means tasks that must be provided by a registered nurse or a licensed practical nurse considering the service's complexity, the member's condition, and accepted standards of medical and nursing practice.

This definition is cited in the following sections of PDN rule: Eligibility (8.540.2.A.3.);
Reimbursement (8.540.8.E.)



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PROPOSED DEFINITION REVISION

Skilled Nursing/skilled nursing service means services provided under the licensure, scope, and standards of the Colorado Nurse Practice Act, Title 12 Article 38 of the Colorado Revised Statutes, performed by a registered nurse (RN) under the direction of a physician or allowed practitioner, or a licensed practical nurse (LPN) under the supervision of an RN and the direction of a physician or allowed practitioner, for tasks that cannot be delegated.

This definition is cited in the following sections of PDN rule: Eligibility (8.540.2.A.); Benefit Limitations (8.540.4.D.); Provider Responsibilities (8.540.6.C.); Prior Authorization Procedures (8.540.7.C); Reimbursement (8.540.8.F.)



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PROPOSED DEFINITION REVISION

Technology Dependent means the use of medical devices without which adverse health consequences or hospitalization would likely follow. ~~a client who:~~

- ~~a. — Is dependent at least part of each day on a mechanical ventilator; or~~
- ~~a. — Requires prolonged intravenous administration of nutritional substances or drugs;
or~~
- ~~a. — Is dependent daily on other respiratory or nutritional support, including tracheostomy tube care, suctioning, oxygen support or tube feedings when they are not intermittent.~~

This definition is cited in the following sections of PDN rule: Provider Responsibilities (8.540.6.C.)

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PROPOSED NEW DEFINITION

Utilization Management means a process that evaluates the efficiency, appropriateness, and medical necessity of the treatments, services, and procedures provided to members on a case-by-case basis.

This definition will be used in relation to Utilization Review (8.540.7.D.); Prior Authorization Procedures (8.540.7.)



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PROPOSED NEW DEFINITION

Utilization Review Contractor means a third-party vendor contracted by the Department to perform utilization management functions for specific services.

This definition is cited in the following sections of PDN rule: Utilization Review (8.540.7.D.1.)

Next Steps

- Future Engagement Opportunities and Meetings
- Meeting documents and recordings available here: [Private Duty Nursing Webpage](#)
- How to submit feedback and comments
 - [PDN Rule Comments Google Form](#)
 - Email HomeHealth@state.co.us - subject “PDN Rule Comments”
 - Call 303-866-5349 and leave a message with your name, phone number, and comments

Ways to Provide Public Comment

Email

HomeHealth@state.co.us

[PDN Rule Review
Feedback Google Form](#)

FAX

303-866-2786

ATTN: PDN Rule Comments

Letter

Department of Health Care
Policy and Financing
ATTN: PDN Rule Comments
303 E. 17th Avenue
Denver, CO 80203

hcpf.colorado.gov/private-duty-nursing



COLORADO

Department of Health Care
Policy & Financing



Questions?

Contact Information

Home Health Inbox

HomeHealth@state.co.us



Thank you!

