



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
September 8, 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, William Kinnard, Idalia Massa-Carroll, Barry Martin, An Nguyen, Christina Mulkey and Vincent Scott.

B. Members Excused

Cecile Fraley and James McLaughlin

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 1900 E. 3rd Ave Durango, CO 81301 on Friday, October 13, 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

Mr. Scott moved for the approval of the August minutes. The motion was seconded by Dr. Martin. The minutes were approved, 8:0.

Rules

A. Emergency Adoption

Document 10, MSB 23-08-29-B, Revision to the Medical Assistance Act Rule concerning Novel Corona Virus Disease (COVID-19) Rules, Section 8.6000

Janelle Poullier, Office of Community Living, presented the rule and explained this is a continuation of the emergency rule. It allows for enhanced flexibility and alignment with federal guidance. The rule continues until to November 2023.

Board Discussion – NA

Public Testimony – NA

Dr. Nguyen moved for the emergency adoption of Document 10. Mr. Scott seconded the motion.

The Board voted the emergency adoption of Document 10, 8:0.

Document 11, MSB 23-08-29-C, Revision to the Medical Assistance Act Rule concerning Nursing Facility Immunization Administration, Sections 8.443 and 8.815

Richard Clark, Office of Community Living, presented the rule and explained no changes to the emergency rule and that federal authority has extend the rule for 1 year.

Board Discussion – Board discussion included what obstacles exist to make this rule permanent. The Department must align with Medicare policies.

Public Testimony – NA

Dr. Martin moved for the emergency adoption of Document 11. Ms. Caroll seconded the motion.

The Board voted the emergency adoption of Document 11, 8:0.

Dr. Massa-Caroll joined – 9:12am

Document 13, MSB 23-09-08-A, Revision to the Medical Assistance Act Rule concerning Durable Medical Equipment Complex Rehabilitation Technology Repair Metrics, Section 8.590

Haylee Rodgers, Health Policy Office, presented the rule and explained The proposed rule establishes Complex Rehabilitation Technology (CRT) repair

metrics related to timeliness and quality. This rule also establishes a process for CRT providers to report their data to the Department.

Board Discussion – Board discussion included an explanation of CRT metrics - customized wheel chairs and auto seating for example.

Public Testimony – NA

Dr. Mulkey moved for the emergency adoption of Document 13. Ms. Carol seconded the motion.

The Board voted the emergency adoption of Document 13, 9:0.

B. Final Adoption by Consent Agenda

Document 01, CHP 23-05-09-A, Revision to the CHP Plus Rule Concerning Changes to add Gender Affirming Care and other Technical Updates, 10 CCR 2505-03

Document 02, MSB 23-04-25-B, Revision to the Medical Assistance Act Rule concerning HB23-1130 Implementation, Section 8.800.1 and 8.800.7

Document 03, MSB 23-05-17-A, Revision to the Medical Assistance Act Rule concerning Hospital Services Rule, Section 8.300

Document 04, MSB 23-05-31-A, Revision to the Medical Assistance Act Rule concerning Durable Medical Equipment Oxygen Certificate of Medical Necessity, Section 8.580

Ms. Carol moved for the final adoption of Documents 01, 02, 03 & 04. Mr. Scott seconded the motion.

The Board voted the final adoption of Document 01, 02, 03 & 04; 9:0.

C. Final Adoption Agenda

Document 05, MSB 23-07-26-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. This is the final adoption of the emergency rule.

Board Discussion – Board discussion included how bariatric surgery is easier than expensive medicines. This rule came from legislation developed and is not about access to surgery rather the use of a metric and how it is questionable. The legislation removes metric. Broad statute regarding BMI usage as a metric and the Department scanned the rules for using BMI as a metric and removed the language.

Public Testimony – NA

Mr. Scott moved for the final adoption of Document 05. Dr. Martin seconded the motion.

The Board voted the initial approval of Document 05, 9:0.

Document 06, MSB 23-07-26-B, 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.

Board Discussion – Board discussion included a question regarding if there was a threat to legal immigrants prior to the rule and how the Department is complying with the Federal government regarding equal protection.

Public Testimony – NA

Dr. Kinnard moved for the final adoption of Document 06. Dr. Massa-Carroll seconded the motion.

The Board voted the initial approval of Document 06, 9:0.

Document 07, MSB 23-07-26-C, 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 an overview of the CHASE model, collect fees to match with federal dollars and disperse to specific hospitals. The rule will be updated as the CHASE Board refines the categories.

Public Testimony – NA

Dr. Martin moved for the final adoption of Document 07. Dr. Mulkey seconded the motion.

The Board voted the initial approval of Document 07, 9:0.

D. Initial Approval

Document 08, MSB 23-04-25-A, Revision to the Medical Assistance Rule Concerning Dental Therapists in Federally Qualified Health Centers, Section 8.700.1.B

Alex Lyons, Compliance Section, presented the rule and explained this rule clarifies that dental therapists are included within the definition of a visit to a Federally Qualified Health Center and thus can be reimbursed for services performed in that setting.

Board Discussion – Board discussion included that safety net Federally Qualified Health Centers are the first to employ dental therapists and this is a great rule.

Public Testimony – NA

Dr. Nguyen moved for the initial approval of Document 08. Ms. Carroll seconded the motion.

The Board voted the initial approval of Document 08, 9:0.

Document 09, MSB 23-05-23-A, Revision to the Post-Eligibility Treatment of Income Rules, Sections 8.486.60, 8.509.17, 8.515.85.O

Victoria Rodgers, Office of Community Living, presented the rule and explained the Department is making changes to the regulations pertaining to the process for Post Eligibility Treatment of Income (PETI). PETI is the calculation used to determine the member's obligation (payment) for the payment of services. This applies to all individuals receiving services within an Assisted Care Facility (ACF) or Supported Living Program (SLP) through the Home and Community-Based Service (HCBS) Elderly, Blind, and Disabled (EBD), Brain Injury (BI), and Community Mental Health Supports (CMHS) waivers.

Board Discussion – NA

Public Testimony – NA

Ms. Carroll moved for the initial approval of Document 09. Mr. Scott seconded the motion.

The Board voted the initial approval of Document 09, 9:0.

E. Request to Table

Document 12, MSB 23-02-09-A, Revision to the Medical Assistance Act Rule concerning Electronic Consultation (eConsults), Section 8.095

Russ Zigler, Health Programs Office, presented the rule and explained requesting an extension of 1 month. In that time staff can address all concerns brought up at the last meeting.

Board Discussion – Board discussion included thanks for taking the time and thoughtfully addressing concerns. The Board is looking forward to the new proposal, good process lowers usage threshold.

Public Testimony – NA

Mr. Scott moved to table Document 12 for 1 month. Ms. Carroll seconded the motion.

The Board voted to table Document 12 for 1 month, 9:0.

F. Consent Discussion

Mr. Honea motioned to add Document 08 & 09 to the Consent Agenda.

The Board voted to add Document 08 & 09 to the Consent Agenda; 9:0.

G. Closing Motion

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

Open Comments

NA

Department Updates

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

The meeting was adjourned at 11:18 a.m.

The next scheduled meeting of the Medical Services Board is at 9:00 a.m. on Friday, October 13, 2023 at 1900 E. 3rd Ave Durango, CO 81301.

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.