Title of Rule: Homemaker Services

Rule Number: MSB 05-05-10-A

Division / Contact / Phone: Long Term Benefits Division / Mary Dwyer / 303-866-2883

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

   This rule revision reformants, clarifies and eliminated unnecessary or redundant language and changes billing units from one hour to 15 minutes.

2. An emergency rule-making is imperatively necessary

   ☐ to comply with state or federal regulation and/or

   ☐ for the preservation of public health, safety and welfare.

   Explain:

3. Federal authority for the Rule, if any:

   42 C.F.R. Sections 440.180 and 440.181

4. State Authority for the Rule:

   25.5-1-301 through 25.5-1-303, C.R.S. (2005);
   and 26-4-603, 26-4-607, and 26-4-645 C.R.S. (2005)

Initial Review	**01/13/06**	Final Adoption	**02/10/06**
Proposed Effective Date	**04/01/06**	Emergency Adoption	

DOCUMENT #4

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REGULATORY ANALYSIS

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

   No classes of persons will be affected by the proposed rule revision because the rule merely reformats, clarifies and eliminates unnecessary or redundant language and changes billing units from one hour to 15 minutes.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

   There is no probable quantitative and/or qualitative impact of the proposed rule change because the rule merely reformats, clarifies and eliminates unnecessary or redundant language and changes billing units from one hour to 15 minutes.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

   There are no probable costs to the Department or any other agency regarding the implementation and enforcement of the proposed rule because the rule merely reformats, clarifies and eliminates unnecessary or redundant language and changes billing units from one hour to 15 minutes. The change in billing units to 15 minute increments could result in an increase in the number of units billed but this change is budget neutral because the rate per unit has been decreased to one quarter of the former hourly rate to ensure no effect in costs.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

   The benefit of the rule is that the Single Entry Point Case Manager will have instructions that are clearer and easier to apply for purposes of authorizing services.

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

   N/A

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

   N/A

8.490 HOMEMAKER SERVICES

8.490.1 DEFINITIONS

Homemaker Provider Agency means a provider agency that is certified by the state fiscal agent to provide Homemaker Services.

Homemaker Services means general household activities provided in the home of an eligible client provided by a Homemaker Provider Agency to maintain a healthy and safe home environment for a client, when the person ordinarily responsible for these activities is absent or unable to manage these tasks.

8.490.2 ELIGIBLE CLIENTS

8.490.2.A. Homemaker Services are available to clients in the Home and Community Based Services Waivers for Elderly Blind and Disabled, Persons Living with Aids and Persons with Mental Illness.

8.490.3 BENEFITS

8.490.3.A. Covered benefits shall be for the benefit of the client and not for the benefit of other persons living in the home. Services shall be applied only to the permanent living space of the client.

8.490.3.B. Benefits include:

1. Routine light housecleaning, such as dusting, vacuuming, mopping, and cleaning bathroom and kitchen areas.

2. Meal preparation.

3. Dishwashing.

4. Bedmaking.

5. Laundry.

6. Shopping.

7. Teaching the skills listed above to clients who are capable of learning to do such tasks for themselves. Teaching shall result in a decrease of weekly units required within ninety days. If such a savings in service units is not realized, teaching shall be deleted from the care plan.

8.490.3.C. Benefits do not include:

1. Personal care services.

2. Services the person can perform independently.

3. Homemaker services provided by family members per 10 C.C.R. 2505-10, Section 8.485.20

8.490.3.D. Homemakers Services provided in uncertified congregate facilities are not a benefit.

8.490.4 HOMEMAKER PROVIDER AGENCY RESPONSIBILITIES

8.490.4.A. All providers shall be certified by the Department as a Homemaker Provider Agency.

8.490.4.B. The Homemaker Provider Agency shall conform to all general certification standards and procedures at 10 C.C.R. 2505-10, Section 8.487

8.490.4.C. The Homemaker Provider Agency shall assure and document that all staff receive at least eight hours of training or have passed a skills validation test prior to providing unsupervised homemaker services. Training or skills validation shall include:

1. The areas detailed in Section 8.490.3.B.

2. Proper food handling and storage techniques.

3. Basic infection control techniques including universal precautions.

4. Informing staff of policies concerning emergency procedures.

8.490.4.D. All Homemaker Provider Agency staff shall be supervised by a person who, at a minimum, has received training or passed the skills validation test required of homemakers, as specified above. Supervision shall include, but not be limited to, the following activities:

1. Train staff on agency policies and procedures.

2. Arrange and document training.

3. Oversee scheduling and notify clients of schedule changes.

4. Conduct supervisory visits to client's homes at least every three months or more often as necessary for problem resolution, staff skills validation, observation of the home's condition and assessment of client's satisfaction with services.

5. Investigate complaints and critical incidents.

8.490.5 REIMBURSEMENT

8.490.5.A. Payment for Homemaker Services shall be the lower of the billed charges or the maximum rate of reimbursement set by the Department. Reimbursement shall be per unit of 15 minutes.

8.490.5.B. Payment may include travel time to and from the client's residence, to be billed at the same unit rate as Homemaker Services. The time billed for travel shall be listed separately from, but documented on the same form as the actual service provided. Travel time shall be totaled over a period of at least a week and rounded to the nearest 15 minutes for billing purposes. Travel time to one client's residence shall not be billed as travel time from another client's residence.

8.490.5.C. If a visit by a home health aide from a home health agency includes Homemaker Services, only the home health aide visit shall be billed.

8.490.5.D. If a visit by a personal care provider from a personal care provider agency includes Homemaker Services, only the personal care visit shall be billed.

8.490.5.E. Each visit shall be billed to the Medicaid fiscal agent with the following documentation:

1. The nature and extent of services.

2. The provider's signature.

3. The date and time of arrival and departure from a client's home.

4. The date and time of arrival and departure time for travel.

~~8.490 HOMEMAKER SERVICES~~

~~8.490.10 DEFINITIONS~~

Rev eff. 8/1/94 ~~.11 Homemaker services means general household activities provided in the home of an eligible client, when the individual ordinarily responsible for these activities is temporarily absent or unable to manage the household activities.~~

Rev. eff. 9/01/96 ~~.12 Homemaker provider means a provider agency as defined at Section 8.484.50, P GENERAL DEFINITIONS, which has met all the certification standards for homemaker providers listed below.~~

~~8.490.20 INCLUSIONS~~

Add eff 8/1/94 ~~.21 Homemaker services include the following activities:~~

~~A. Routine light housecleaning, such as dusting, vacuuming, mopping, and cleaning of bathroom and kitchen areas.~~

~~B. Meal preparation.~~

~~C. Dishwashing.~~

~~D. Bedmaking.~~

~~E. Laundry.~~

~~F. Shopping.~~

Added eff. 2/01/97 ~~G. Teaching of all the above skills to eligible clients who are capable of doing such chores for themselves, except for lack of training or previous experience. The goal of such teaching is to decrease client dependence, resulting within ninety (90) days in a decrease in the weekly number of units of service on the care plan. If such a savings in service units is not realized, teaching shall be deleted from the care plan.~~

~~THIS REVISION~~	~~VIII-97-1~~	~~LAST REVISION~~	~~VIII-95-9~~	~~REVISION NUMBER~~
~~Adopted:~~	~~12/13/96~~	~~Adopted:~~	~~8/11/95~~	~~2~~
~~Effective Date:~~	~~2/01/97~~	~~Effective Date:~~	~~10/01/95~~	

~~8.490.30 EXCLUSIONS AND RESTRICTIONS~~

~~.31 Homemaker services shall not include any personal care services.~~

Rev. eff. 1/01/2000 ~~.32 Homemaker services shall be for the explicit benefit of the eligible client, and not for the benefit of other persons living in the home. Whenever there are other household members eighteen years of age or older who are not physically or mentally disabled, the homemaker shall clean only the client's bedroom and one bathroom used by the client; and shall wash only dishes that were used by the client. The homemaker shall also not perform homemaking services for guests of the client, such as, but not limited to, cleaning up after a party or a family dinner. Clients, family, or others may choose to make private pay arrangements with the provider agency for homemaker services not covered under Medicaid.~~

Added eff. 1/01/2000 ~~.33 The amount of homemaking that is prior authorized is only an estimate, including estimated travel time. The prior authorization of a certain number of hours does not create an entitlement on the part of the client or the provider for that exact number of hours. All hours provided and reimbursed by Medicaid must be for covered services and must be necessary to meet the client's needs.~~

Added eff. 1/01/2000 ~~.34 Family members shall not be reimbursed to provide only homemaker services. Family members must provide relative personal care in accordance with SECTION 8.485.200, LIMITATIONS ON PAYMENT TO FAMILY. Documentation of services provided must indicate that the provider is a relative.~~

~~8.490.40 CERTIFICATION STANDARDS FOR HOMEMAKER SERVICES~~

~~.41 Homemaker provider agencies shall conform to all general certification standards and procedures at Section 8.487, HCBS-EBD PROVIDER AGENCIES.~~

Rev eff. 8/1/94 ~~.42 Homemaker provider agencies shall assure and document that all homemakers have received at least eight hours of training, or have passed a skills validation test, prior to service delivery, in the provision of homemaker services as described above. Training, or skills validation, shall include the areas of routine light housecleaning, meal preparation, dishwashing, bed making, laundry, and shopping. Training shall also include proper food handling and storage techniques, and basic infection control techniques including universal precautions.~~

~~.43 All employees providing homemaker services shall be supervised by a person who, at a minimum, has received the training, or passed the skills validation test, required of homemakers, as specified above. Supervision shall include, but not be limited to, the following activities:~~

~~8.490.40 CERTIFICATION STANDARDS FOR HOMEMAKER SERVICES~~

~~A. Arrangement and documentation of training.~~

~~B. Informing staff of policies concerning advance directives and emergency procedures.~~

~~C. Oversight of scheduling, and notification to clients of changes.~~

~~D. Meetings and conferences with staff as necessary.~~

~~E. Supervisory visits to client's homes at least every three months, or more often as necessary for problem resolution, skills validation of staff, observation of the home's condition, and assessment of client's satisfaction with services.~~

~~F. Investigation of complaints.~~

~~G. Counseling with staff on difficult cases, and potentially dangerous situations.~~

~~H. Communication with the case managers as necessary.~~

~~I. Oversight of record-keeping by staff.~~

Added eff. 7/01/99

~~.44 A homemaker agency may be denied or terminated from participation in Colorado Medicaid, according to procedures found at Section 8.050 through 8.051.44, based on good cause, as defined at 8.051.01. Good cause for denial or termination of a homemaker agency shall include, but not be limited to, the following:~~

~~A. Improper Billing Practices: Any personal care/homemaker agency that is found to have engaged in the following practices may be denied or terminated from participation in Colorado Medicaid:~~

Rev. eff. 1/01/2000

~~1. Billing for visits without documentation to support the claims billed. Acceptable documentation for each visit billed shall include the nature and extent of services, the care provider's signature, the month, day, year, and the exact time in and time out of the client's home, as well as time of departure and time of arrival for all travel time billed. Providers shall submit or produce requested documentation in accordance with rules at 8.079.62.~~

~~THIS REVISION~~	~~VIII-99-09~~	~~LAST REVISION~~	~~VIII-95-9~~	~~REVISION NUMBER~~
~~Adopted:~~	~~11/12/99~~	~~Adopted:~~	~~12/08/958~~	~~7~~
~~Effective Date:~~	~~1/01/2000~~	~~Effective Date:~~	~~2/01/96~~	

~~8.490.40 CERTIFICATION STANDARDS FOR HOMEMAKER SERVICES~~

~~2. Billing for excessive hours that are not justified by the documentation of services provided, or by the client's medical or functional condition. This includes billing all units prior authorized when the allowed and needed services do not require as much time as that authorized.~~

Rev. eff. 1/01/2000

~~3. Unbundling of home health aide and personal care or homemaker services, which is defined as any and all of the following practices~~
~~by any personal care/homemaker agency that is also certified as a Medicaid Home Health Agency, for all time periods during which regulations were in effect that defined the unit for home health aide services as one visit up to a maximum of two and one-half hours:~~

~~a. One employee makes one visit, and the agency bills Medicaid for one home health aide visit, and bills all the hours as HCBS personal care or homemaker.~~

Added eff. 7/01/99

~~b. One employee makes one visit, and the agency bills for one home health aide visit, and bills some of the hours as HCBS personal care or homemaker, when the total time spent on the visit does not equal at least 2 ½ hours plus the number of hours billed for personal care and homemaker.~~

~~c. Two employees make contiguous visits, and the agency bills one visit as home health aide and the other as personal care or homemaker, when the time spent on the home health aide visit was less than 2 ½ hours.~~

~~d. One or more employees make two or more visits at different times on the same day, and the agency bills one or more visits as home health aide and one or more visits as personal care or homemaker, when any of the aide visits were less than 2 ½ hours and there is no reason related to the client's medical condition or needs that required the home health aide and personal care or homemaker visits to be scheduled at different times of the day.~~

~~THIS REVISION~~	~~VIII-99-09~~	~~LAST REVISION~~	~~VIII-99-04~~	~~REVISION NUMBER~~
~~Adopted:~~	~~11/12/99~~	~~Adopted:~~	~~5/14/99~~	~~8~~
~~Effective Date:~~	~~1/01/2000~~	~~Effective Date:~~	~~7/01/99~~	

~~8.490.40 CERTIFICATION STANDARDS FOR HOMEMAKER SERVICES~~

~~e. One or more employees make two or more visits on different days of the week, and the agency bills one or more visits as home health aide and one or more visits as personal care or homemaker, when any of the aide visits were less than 2 ½ hours and there is no reason related to the client's medical condition or needs that required the home health aide and personal care or homemaker visits to be scheduled on different days of the week.~~

~~f. Any other practices that circumvent these rules and result in excess Medicaid payment through unbundling of home health aide and personal care or homemaker services.~~

Added eff. 1/01/2000

~~4. For all time periods during which the unit of reimbursement for home health aide is defined as hour and/or half-hour increments, all the practices described in 3 above shall constitute unbundling if the home health aide does not stay for the maximum amount of time for each unit billed.~~

Added eff. 7/01/99

~~B. Refusal to Provide Necessary and Allowed Personal Care or Homemaker Services Without Also Receiving Payment For Home Health Services. A personal care/homemaker agency that is also certified as a Medicaid Home Health Agency may be terminated from Medicaid participation if the agency refuses to provide necessary and allowed HCBS personal care or homemaker services to clients who do not need Home Health services or who receive their Home Health services from a Home Health Agency not affiliated with the personal care/homemaker agency.~~

~~C. Prior Termination From Medicaid Participation. A personal care/ homemaker agency shall be denied or terminated from Medicaid participation if the agency or its owner(s) have previously been involuntarily terminated from Medicaid participation as a personal care/homemaker agency or any other type of service provider.~~

~~D. Abrupt Prior Closure. A personal care/ homemaker agency may be denied or terminated from Medicaid participation if the agency or its owner(s) have abruptly closed, as any type of Medicaid provider, without proper prior client notification.~~

~~.45 Any Medicaid overpayments to a provider for services that should not have been billed shall be subject to recovery. Overpayments that are made as a result of a~~

~~8.490.40 CERTIFICATION STANDARDS FOR HOMEMAKER SERVICES~~

~~provider's false representation shall be subject to recovery plus civil monetary penalties and interest. False representation means an inaccurate statement that is relevant to a claim which is made by a provider who has actual knowledge of the false nature of the statement, or who acts in deliberate ignorance or with reckless disregard for truth. A provider acts with reckless disregard for truth if the provider fails to maintain records required by the department or if the provider fails to become familiar with rules, manuals, and bulletins issued by the State, the Medical Services Board, or the State's fiscal agent.~~

~~.46 When a personal care/ homemaker agency voluntarily discloses improper billing, and makes restitution, the State shall consider deferment of interest and penalties in the context of the particular situation.~~

~~8.490.50 REIMBURSEMENT~~

Rev. eff. 11/01/01 ~~.51 Payment for homemaker services shall be the lower of the billed charges or the maximum rate of reimbursement. Reimbursement shall be per unit of one hour. The maximum unit rate shall be adjusted by the State as funding becomes available.~~

Rev. eff 7/01/00 ~~.52 Payment may include travel time to and from the client's residence, to be billed at the same unit rate as homemaker services. The time billed for travel shall be listed separately from, but documented on the same form as, the time for service provision on each visit. Travel time must be summed over a period of at least a week and then rounded to the nearest hour for billing purposes. Travel time to one client's residence may not also be billed as travel time from another client's residence, as this would represent duplicate billing for the same time period.~~

~~.53 If a visit by a Home Health Aide from a Home Health Agency includes homemaker services, as defined in this section, only the Home Health Aide visit shall be billed.~~

~~.54 If a visit by personal care staff, as defined in Section 8.489, PERSONAL CARE, includes homemaker services, the entire visit shall be billed as personal care only.~~

Added eff. 2/01/99 ~~.55 Effective 2/1/99, THERE SHALL BE NO REIMBURSEMENT FOR HOMEMAKER SERVICES PROVIDED IN UNCERTIFIED CONGREGATE FACILITIES UNDER THIS SECTION. Case managers~~

~~may submit a written request to the Department for a waiver not to exceed six months for clients receiving services in uncertified congregate facilities prior to the effective date of this rule. After that time, services shall be discontinued.~~

~~THIS REVISION~~	~~VII-01-02-02~~	~~LAST REVISION~~	~~VIII-99-00-05~~	~~REVISION NUMBER~~
~~Adopted:~~	~~9/14/01~~	~~Adopted:~~	~~5/12/00~~	~~10~~
~~Effective Date:~~	~~11/01/01~~	~~Effective Date:~~	~~7/01/00~~	

~~.56 Cost Reporting~~

~~Added eff. 11/01/01~~

~~A. All homemaking agencies shall report and submit to the Department cost report information on a Department prescribed form.~~

Rev. eff. 10/01/02

~~B. By dates set forth by the Department, homemaker providers shall submit an annual cost report for the provider agency's most recent complete fiscal year or the State fiscal year.~~

Rev. eff. 10/01/02

~~C. Providers that do not comply with Section 8.490.56 shall have their Medicaid provider agreement terminated.~~