Title of Rule:	Revision to the Home and Community Based Services for the Elderly, Blind and Disabled (HCBS-EBD) Rule.
Rule Number:	MSB 05-09-22-A
Division / Contact / Phone:	Long Term Benefits / Barbara Ramsey / 303-866-5409

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).

   The rule revision clarifies and eliminates language regarding Community Transition Services (CTS). A new rule 10 C.C.R. 2505-10, Section 8.553 has been created to establish regulations for CTS making the language in the HCBS-EBD rule redundant and unnecessary.

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:

4. State Authority for the Rule:

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

Initial Review	**02/10/06**	Final Adoption	**03/10/06**
Proposed Effective Date	**05/01/06**	Emergency Adoption	

DOCUMENT # 15

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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 revision merely clarifies and eliminates unnecessary language.

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

   The proposed rule revision will have no quantitative or qualitative impact; the change clarifies and eliminates language regarding Community Transition Services (CTS). A new rule found at 10 CCR 2505-10, Section 8.553 has been created to establish regulations for CTS, which makes the language in the existing HCBS-EBD rule redundant and unnecessary.

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 will be no costs to the Department or any other agency because the revision merely clarifies and eliminates unnecessary language.

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

   None.

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

   None.

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.

   None.

8.485.30 SERVICES PROVIDED

.31 HCBS-EBD services provided as an alternative to nursing facility placement include:

A. Adult day services; and

B. Alternative care facility services, including homemaker and personal care services in a residential setting; and

C. Electronic monitoring; and

D. Home modification; and

E. Homemaker services; and

F. Non-medical transportation; and

G. Personal care; and

H. Respite care.

I. In-Home Support Services.

J. Community Transition Services~~, upon federal approval of the waiver amendment adding the service.~~

.32 Case management is not a service of the HCBS-EBD waiver program, but shall be provided as an administrative activity through Single Entry Point Agencies.

.33 HCBS-EBD clients are eligible for all other Medicaid state plan benefits, including the Home Health program.

8.485.40 DEFINITIONS OF SERVICES

A. Adult day services shall be as defined at Section 8.491.

B. Alternative care facility services shall be as defined at Section 8.495.

C. Electronic monitoring shall be as defined at Section 8.488.

D. Home modification shall be as defined at Section 8.493.

E. Homemaker services shall be as defined at Section 8.490.

F. Non-medical transportation shall be as defined at Section 8.494.

G. Personal care shall be as defined at Section 8.489.

H. Respite shall be as defined at Section 8.492.

I. In-Home Support Services shall be as defined at Section 8.552.

J. Community Transition Services (CTS) shall **be as defined at Section 8.553.** ~~include the identification and coordination of Medicaid and non-Medicaid services related to moving out of a nursing facility, purchase of household items or payment of routine fees essential to establish a community-based residence. This may also include the one-time purchase of food not to exceed $100.~~

~~CTS shall not exceed $2,000 per client, unless otherwise authorized by the Department and shall not include rent or the purchase of recreational or entertainment items.~~

8.485.50 GENERAL DEFINITIONS (Conclusion)

O. Level of care screen shall be as defined at 8.401.

P. Non-diversion shall be defined as a client who was certified by the Utilization Review Contractor as meeting the level of care screen and target group for the HCBS-EBD program, but who did not receive HCBS-EBD services for some other reason.

Q. Provider agency shall be defined as an agency, certified by the Department and which has a contract with the Department to provide one of the services listed at 8.485.40. A single entry point agency is not a provider agency, as case management is an administrative activity, not a service. Single Entry Point Agencies may become service providers if the criteria at 8.393.61 are met.

R. Reassessment shall be as defined at 8.390.1(L).

S. Single entry point agency shall be defined as an organization as described at 8.390.(1)(P).

T. Department shall be defined as the state agency designated as the single state Medicaid agency for Colorado, or any divisions or sub-units within that agency.

U. Three hundred percent (300%) eligible shall be defined as persons:

1) Whose income does not exceed 300% of the SSI benefit level; and

2) Who, except for the level of their income, would be eligible for an SSI payment; and

3) Who are not eligible for medical assistance (Medicaid) unless they are recipients in an HCBS program, or are in a nursing facility or hospitalized for thirty consecutive days.

~~V. Transition Coordination Agency (TCA) means an agency certified by the Department to provide CTS. To be a certified TCA, the agency shall provide at least two independent living core services. Independent living core services means information and referral services, independent living skills training, peer counseling, including cross-disability peer counseling and individual and systems advocacy.~~

8.485.90 STATE PRIOR AUTHORIZATION OF SERVICES

.95 Every PAR shall be supported by information on the Long Term Care Plan form, the ULTC-100.2 and written documentation from the income maintenance technician of the client's current monthly income. All units of service requested on the PAR shall be listed on the Long Term Care Plan form. If a range of units is estimated on the care plan, the number of units at the higher end of the range may be requested on the PAR. As needed or PRN services must be given a numerical estimate on the care plan.

.96 If a PAR includes a request for home modification services above the Department prescribed amount, the PAR shall also include all documentation listed at Section 8.493.

.97 If a PAR is for an Alternative Care Facility client who is 300% eligible, all medical and remedial care requested as deductions shall be listed on the Client Payment form.

.98 The start date on the Prior Authorization Request form shall not precede the start date of eligibility for HCBS-EBD services, according to Section 8.485.70, except for CTS**.** A TCA may provide CTS up to 180 days prior to nursing facility discharge when authorized by the SEP. The TCA is eligible for reimbursement beginning on the first day of the client's HCBS-EBD enrollment.

.99 The PAR shall not cover a period of time longer than the length of stay assigned by the Utilization Review Contractor.

Note: Sections 8.485.100 - 8.485.101 were deleted effective 7/1/02.

88.486.30 ASSESSMENT

.31 If the client is being discharged from a hospital or other institutional setting, the discharge planner shall contact the URC/SEP agency for assessment by emailing or faxing the Initial Intake and Screening form as required at Section 8.393.21.

.32 The URC/SEP case manager shall view and document the current Personal Care Boarding Home license, if the client lives, or plans to live, in a congregate facility as defined at Section 8.485.50, in order to ensure compliance with Section 8.485.20.

.33 A SEP may determine that a client is eligible for HCBS-EBD while the client resides in a nursing facility when the client meets the eligibility criteria as established at 10 C.C.R. 2505-10, §8.400, *et seq*., the client requests CTS and the SEP includes CTS in the client's long term care plan. If the client has been evaluated with the ULTC 100.2 and has been assigned a length of stay that has not lapsed, the SEP shall not conduct another review when CTS is requested.