

Proposed Colorado Medicaid Regulation Revisions
Colorado Medicaid
Prepared September 1, 2012

Issue	Current Regulations	Proposed Changes	Comments	
#1 - Dual-Role Employees Split Between HC and A&G	<p>10 CCR 2505-10 §8.443.7.A.1 states: "Health Care Services Defined: Health Care Services means the categories of reasonable, necessary and patient-related support services listed below. No service shall be considered a health care service unless it is listed below:</p> <p><i>The salaries, payroll taxes, worker compensation payments, training and other employee benefits of registered nurses, licensed practical nurses, restorative aides, nurse aides, feeding assistants, registered dietitians, MDS coordinators, nursing staff development personnel, nursing administration (not clerical) case manager, patient care coordinator, quality improvement, clinical director. These personnel shall be appropriately licensed and/or certified, although nurse aides may work in any facility for up to four months before becoming certified.</i></p> <p><i>If an employee has dual health care and administrative duties (i.e. Admissions and Marketing), the provider must keep contemporaneous time records or perform time studies to verify hours worked performing health care related duties. If no contemporaneous time records are kept or time studies performed, total salaries, payroll taxes and benefit of personnel performing health care and administrative functions will be classified as administrative and general. "</i></p> <p>10 CCR 2505-10 §8.443.8.A.1 also describes the requirements related to employees who have both health care and administrative and general duties as follows, "Staff who perform duties in both administrative and health care services shall maintain contemporaneous time records or perform a time study in order to properly allocate their salaries between cost centers. "</p>	<p>10 CCR 2505-10 §8.443.7.A.1 states: "Health Care Services Defined: Health Care Services means the categories of reasonable, necessary and patient-related support services listed below. No service shall be considered a health care service unless it is listed below:</p> <p><i>The salaries, payroll taxes, worker compensation payments, training and other employee benefits of registered nurses, licensed practical nurses, restorative aides, certified nurse aides, feeding assistants, registered dietitians, MDS coordinators, nursing staff development personnel, nursing administration (not clerical) case manager, patient care coordinator, quality improvement, clinical director. These personnel shall be appropriately licensed and/or certified, although nurse aides may work in any facility for up to four months before becoming certified.</i></p> <p><i>If an a facility employee or a management company/home office employee or owner has dual health care and administrative duties (i.e. Admissions and Marketing), the provider must keep contemporaneous time records or perform time studies to verify hours worked performing health care related duties. If no contemporaneous time records are kept or time studies performed, total salaries, payroll taxes and benefit of personnel performing health care and administrative functions will be classified as administrative and general. "</i></p> <p>10 CCR 2505-10 §8.443.8.A.1 also describes the requirements related to employees who have both health care and administrative and general duties as follows, "Staff who perform duties in both administrative and health care services shall maintain contemporaneous time records or perform a time study in order to properly allocate their salaries between cost centers. "</p>		
	<p>10 CCR 2505-10 §8.443.7.A.2 states: "Health Care Services Defined: Health Care Services means the categories of reasonable, necessary and patient-related support services listed below. No service shall be considered a health care service unless it is listed below:</p> <p><i>The salaries, payroll taxes, workers compensation payments, training and other employee benefits of medical records librarians, social workers, central or medical supplies personnel and activity personnel.</i></p> <p><i>Health Information Managers (Medical Records Librarians): Must work directly with the maintenance and organization of medical records.</i></p> <p><i>Social Workers: Includes social workers, life enhancement specialists and admissions personnel. "</i></p>	<p>10 CCR 2505-10 §8.443.7.A.2 states: "Health Care Services Defined: Health Care Services means the categories of reasonable, necessary and patient-related support services listed below. No service shall be considered a health care service unless it is listed below:</p> <p><i>The salaries, payroll taxes, workers compensation payments, training and other employee benefits of medical records librarians, social workers, central or medical supplies personnel and activity personnel.</i></p> <p><i>Health Information Managers (Medical Records Librarians): Must work directly with the maintenance and organization of medical records.</i></p> <p><i>Social Workers: Includes social workers, life enhancement specialists and admissions personnel-coordinators.</i></p>		
#2 - Computers and Software Expense in HC	<p>10 CCR 2505-10 §8.443.7.A states: "Health Care Services means the categories of reasonable, necessary and patient-related support services listed below.</p> <p>7. Purchases, rental, depreciation, interest and repair expenses of health care equipment and medical supplies used for health care services such as nursing care, medical records, social services, therapies and activities.</p> <p>9. Copier lease expense, computers and software used in the departments classified as health care, as documented by appropriate logs or other auditable documentation. "</p> <p>10 CCR 2505-10 §8.443.8.A.8.A states: "Administration Costs means the following categories of reasonable, necessary and patient-related costs:</p> <p>7. Purchased services: accounting fees, legal fees; computer services. A computer service refers to any costs associated with the information technology system such as repair, maintenance and upgrades. "</p>	<p>10 CCR 2505-10 §8.443.7.A states: "Health Care Services means the categories of reasonable, necessary and patient-related support services listed below.</p> <p>7. Purchases, rental, depreciation, interest and repair expenses of health care equipment and medical supplies used for health care services such as nursing care, medical records, social services, therapies and activities. Purchase, lease expense or fees associated with computers and software (including the associated training and upgrades) used in health care departments. Dual purpose software that includes both a health care and administrative and general component will be considered a health care service.</p> <p>9. Copier lease expense, computers and software used in the departments classified as health care, as documented by appropriate logs or other auditable documentation. "</p> <p>10 CCR 2505-10 §8.443.8.A.8.A states: "Administration Costs means the following categories of reasonable, necessary and patient-related costs:</p> <p>7. Purchased services: accounting fees, legal fees; computer services. A computer service refers to any costs associated with the information technology system such as repair, maintenance and upgrades network infrastructure fees. Computers and software used in administrative and general departments. "</p>		

Proposed Colorado Medicaid Regulation Revisions
Colorado Medicaid
Prepared September 1, 2012

Issue	Current Regulations	Proposed Changes	Comments						
#3 - Related Party Management Fees and Home Office Costs in HC	10 CCR 2505-10 §8.443.7.A.11 states: <i>"Related party management fees and home office costs shall be classified as administrative and general. However, costs incurred by the facility as a direct charge from the related party which are listed in this section, may be included in the health care cost center equal to the actual costs incurred by the related party. To be included in the health care cost center, the provider must show a direct relationship between the health care costs incurred and the facility receiving the services. Allocations, time studies or estimates will not be allowed. For example, home office or management company nurses must keep contemporaneous time logs in 15 minute increments supporting the number of hours worked at each facility. In addition, documentation supporting the nurse's cost must be maintained. Only salaries, payroll taxes and employee benefits associated with health care personnel will be considered as allowable in the health care cost center. No overhead expenses will be included."</i>	10 CCR 2505-10 §8.443.7.A.11 states: <i>"Related party management fees and home office costs shall be classified as administrative and general. However, costs incurred by the facility as a direct charge from the related party which are listed in this section, may be included in the health care cost center equal to the actual costs incurred by the related party. To be included in the health care cost center, the provider must show a direct relationship between the health care costs incurred and the facility receiving the services. Allocations, time studies or estimates will not be allowed. For example, home office or management company nurses must keep contemporaneous time logs in 15 minute increments supporting the number of hours worked at each facility. In addition, documentation supporting the nurse's cost and health care licenses must be maintained. Only salaries, payroll taxes and employee benefits associated with health care personnel will be considered as allowable in the health care cost center. No overhead expenses will be included. The amount allowable in the health care cost category will be calculated as follows:</i> <table style="margin-left: auto; margin-right: auto;"> <tr> <td>Total health care person's salary, payroll taxes and benefits</td> <td style="text-align: right;">\$80,000</td> </tr> <tr> <td>Divided by: Number of facilities worked on during the year</td> <td style="text-align: right;"><u>5</u></td> </tr> <tr> <td>Equals: Amount allowable in each facility's health care costs</td> <td style="text-align: right;">\$16,000</td> </tr> </table> <i>Auditable documentation supporting the number of facilities worked on during the year must be maintained."</i>	Total health care person's salary, payroll taxes and benefits	\$80,000	Divided by: Number of facilities worked on during the year	<u>5</u>	Equals: Amount allowable in each facility's health care costs	\$16,000	
Total health care person's salary, payroll taxes and benefits	\$80,000								
Divided by: Number of facilities worked on during the year	<u>5</u>								
Equals: Amount allowable in each facility's health care costs	\$16,000								
#4 - Non-Covered Special Care Services	10 CCR 2505-10 §8.440.2 lists Services and Items Not Included in the Per Diem Payment as Follows: 3. <i>Non-covered special care services, i.e., a private duty nurse not employed by the nursing facility, prescribed by the resident's physician;</i> 9. <i>Social events and entertainment offered off premises and outside the scope of the regular facility activities program;</i>	10 CCR 2505-10 §8.440.2 lists Services and Items Not Included in the Per Diem Payment as Follows: 3. <i>Non-covered special care services, i.e., a private duty nurse not employed by the nursing facility prescribed by the resident's physician</i> 9. Social events and entertainment offered off premises and outside the scope of the regular facility activities program;							
#5 - Vaccinations	10 CCR 2505-10 §8.443.7.A.5 which described HC costs as follows: <i>"Non-prescription drugs ordered by a physician that are included in the per diem rate."</i>	10 CCR 2505-10 §8.443.7.A.5 which described HC costs as follows: <i>"Non-prescription drugs ordered by a physician that are included in the per diem rate , including costs associated with vaccinations."</i>							
#6 - Timeline and Penalties	8.050.4.A. <i>Mandatory Information Reconsiderations</i> <ol style="list-style-type: none"> 1. <i>A nursing facility, whose notice of Adverse Actions results from its rate determination, may file a written request for informal reconsideration with the Department within 30 days of the date the rate determination letter is mailed. The request shall state, with specificity, the adjustments to the cost report the nursing facility wants reconsidered and the nursing facility's position as to each adjustment.</i> 2. <i>Requests that do not comply with the requirements of this section shall be considered incomplete and shall be denied.</i> 3. <i>When the first rate letter that incorporates a nursing facility's new appraised value is issued, a nursing facility may file a written request with the department for informal reconsideration of the appraisal within thirty (30) days of the date on the rate letter. Failure to file an informal reconsideration as set forth in this section shall cause any subsequent reconsideration or appeal of the appraisal at issue to be untimely and the reconsideration or appeal shall be dismissed.</i> 4. <i>Failure to file a written request for reconsideration as set forth in this section shall result in a waiver of the right to appeal the Adverse Action. Any issue not presented for informal reconsideration shall not be considered and shall not be appealable to the Office of Administrative Courts.</i> 5. <i>At informal reconsideration, the Provider shall not be allowed to present any information that was not submitted during the audit process prior to the issuance of the rate determination.</i> 	8.050.4.A. <i>Mandatory Information Reconsiderations</i> <ol style="list-style-type: none"> 1. <i>A nursing facility, whose notice of Adverse Actions results from its rate determination, may file a written request for informal reconsideration with the Department within 30 days of the date the rate determination letter is mailed or the date that the nursing facility is notified that an electronic copy of the rate determination letter is available for review. The request shall state, with specificity, the adjustments to the cost report the nursing facility wants reconsidered and the nursing facility's position as to each adjustment.</i> 2. <i>Requests that do not comply with the requirements of this section shall be considered incomplete and shall be denied.</i> 3. <i>When the first rate letter that incorporates a nursing facility's new appraised value is issued or made available electronically to the facility, a nursing facility may file a written request with the department for informal reconsideration of the appraisal within thirty (30) days of the date on the rate letter or the date the facility was notified that the rate letter is available electronically, whichever is later. Failure to file an informal reconsideration as set forth in this section shall cause any subsequent reconsideration or appeal of the appraisal at issue to be untimely and the reconsideration or appeal shall be dismissed.</i> 4. <i>Failure to file a written request for reconsideration as set forth in this section shall result in a waiver of the right to appeal the Adverse Action. Any issue not presented for informal reconsideration shall not be considered and shall not be appealable to the Office of Administrative Courts.</i> 5. <i>At informal reconsideration, the Provider shall not be allowed to present any information that was not submitted during the audit process prior to the issuance of the rate determination. The end of the audit process is defined as the expiration of the proposed adjustment review period as specified in 8.442.3.B.</i> 							

Proposed Colorado Medicaid Regulation Revisions
Colorado Medicaid
Prepared September 1, 2012

Issue	Current Regulations	Proposed Changes	Comments
#7 - Audit Timeline	<p>10 CCR 2505-10 §8.442.3.A. <i>Following completion of a field audit, desk review or rate calculation, the Department or its contract auditor shall notify the affected nursing facility in writing of any proposed adjustment(s) to the costs reported on the facility's MED-13 form and the basis of the proposed adjustment(s).</i></p> <p>10 CCR 2505-10 §8.442.3.B. <i>The facility shall have 35 calendar days from the date the notification was mailed to submit additional documents or other supporting information to the Department or its contract auditor in response to the proposed adjustment(s).</i></p> <p>10 CCR 2505-10 §8.442.3.D. <i>The Department's contract auditor shall complete the field audit, desk review or rate calculation within 30 days of the expiration of the 35 day provider response period. The contract auditor shall also complete and deliver the resulting rate letter to the Department by the 30th day following the expiration of the 35 day provider response period.</i></p>	<p>10 CCR 2505-10 §8.442.3.A. <i>Following completion of a field audit, desk review or rate calculation, the Department or its contract auditor shall notify the affected nursing facility provider in writing of any proposed adjustment(s) to the costs reported on the facility's MED-13 form and the basis of the proposed adjustment(s).</i></p> <p>10 CCR 2505-10 §8.442.3.B. In response to proposed adjustments, the department or its contract auditor must receive additional documents or other supporting information from the provider within 60 calendar days of the date of the proposed adjustments letter.</p> <p>10 CCR 2505-10 §8.442.3.D. <i>The Department's contract auditor shall complete the field audit, desk review or rate calculation within 30 days of the expiration of the 35 60 day provider response period. The contract auditor shall also complete and deliver the resulting rate letter to the Department by the 30th day following the expiration of the 35 60 day provider response period.</i></p>	
#8 - Medicaid Authorities	<p>10 CCR 2505-10 §8.443.1.A. <i>Where no specific Medicaid authority exists, the sources listed below shall be considered in reaching a rate determination:</i></p> <ol style="list-style-type: none"> 1. <i>Medicare statutes.</i> 2. <i>Medicare regulations.</i> 3. <i>Medicaid and Medicare guidelines.</i> 4. <i>Generally accepted accounting principles.</i> 	<p>10 CCR 2505-10 §8.443.1.A. <i>Where no specific Medicaid authority exists, the sources listed below shall be considered in reaching a rate determination:</i></p> <ol style="list-style-type: none"> 1. <i>Medicare statutes. 42 U.S.C. sec. 1396r (2012). This rule does not include any later amendments or editions of the code. A copy of the code is available for public inspection at Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, CO 80201 where a copy of the code provision is available for a reasonable charge. A copy is also available, for a reasonable charge from Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7954</i> 2. <i>Medicare regulations. 42 C.F.R. sec. 400-505 (2011). This rule does not include any later amendments or editions of the code. A copy of the code is available for public inspection at Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, CO 80201 where a copy of the code provision is available for a reasonable charge. A copy is also available, for a reasonable charge from U.S. Government Printing Office, P.O. Box 979050, St. Louis, MO 63197-9000.</i> 3. <i>Medicaid and Medicare guidelines: The U.S. Department of Health and Human Services Provider Reimbursement Manual (Mar. 1993); The State Medicaid Manual (Publication # 45). This guidance does not include any later amendments or editions of the manuals. A copy of the guidelines is available for public inspection at Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, CO 80201 where a copy of the guidelines is available for a reasonable charge. A copy is also available, for a reasonable charge from U.S. Government Printing Office, P.O. Box 979050, St. Louis, MO 63197-9000.</i> 4. <i>Generally accepted accounting principles. The Financial Accounting Standards Board Accounting Standards Codification (FASB ASC)(2011). Pursuant to 24-4-103 (12.5), C.R.S., the Department maintains copies of this incorporated text in its entirety, available for public inspection during regular business hours at: Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, CO 80203. Copies of incorporated materials are provided, at cost, upon request.</i> 	

Proposed Colorado Medicaid Regulation Revisions
Colorado Medicaid
Prepared September 1, 2012

Issue	Current Regulations	Proposed Changes	Comments
-------	---------------------	------------------	----------

#9 - Allowable Owner and Owner-Related Salary

10 CCR 2505-10 §8.441.5.B.3 *The methods set forth below shall determine the allowable costs of salaries paid to owner and owner related employees. For each method, if an owner or owner-related employee is compensated for services to the facility, any compensation paid to another individual in the same position shall be excluded from the allowable costs for that cost reporting period.*

a. *Owner and Owner-Related Administrators: The maximum allowable cost of salaries paid to owner and owner-related administrators shall be equal to the median of salaries paid to all non owner and non owner related administrators in facilities of comparable size. The median shall be computed by the Department from a survey of all Colorado Medicaid participating facilities conducted each January, and shall be applied to salaries for that calendar year. Categories of facilities, based on licensed bed capacity, for purposes of determining comparability shall be as follows: 1 74; 74 99; 100 149; 150 200 and more than 200.*

b. *Owner and Owner-Related Assistant Administrator: The maximum allowable cost for such services shall be 75% of the maximum allowable salary of an owner or owner related assistant administrator of a comparable facility. No costs shall be allowable for owner or owner related assistant administrators in facilities with licensed bed capacities less than 150.*

c. *Owner and Owner-Related Physicians Performing Administrative Services: Salaries shall be an allowable cost up to the maximum established for owner and owner-related administrators in a comparable facility.*

d. *Owner and Owner-Related Nursing Directors: Salaries shall be an allowable cost up to a maximum of 65% of the maximum allowable salary of an owner or owner-related administrator of a comparable facility.*

4. *Fringe benefits for owner and owner-related employees shall be allowable costs up to a maximum established by the Department each March for that calendar year. This maximum shall be equal to the fringe benefit percentage of private employees in Colorado as determined by the survey conducted by the State Department of Personnel, minus that portion of the computation that includes holidays, vacation and sick leave days.*

5. *Exceptions to the application of the median as the maximum allowable salary for owner and owner-related employees shall be approved by the Department only where the nursing home can demonstrate that it has unique characteristics or the employee in question has special qualifications and experience which would make application of the median for that size facility unreasonable. Requests for exceptions shall be submitted to the Department in writing no later than 90 days prior to the end of the facility's fiscal year.*

10 CCR 2505-10 §8.441.5.B.3 *The methods set forth below shall determine the allowable costs of salaries paid to owner and owner related employees. For each method, if an owner or owner-related employee is compensated for services to the facility, any compensation paid to another individual in the same position shall be excluded from the allowable costs for that cost reporting period.*

a. *Owner and Owner-Related Administrators: The maximum allowable cost of salaries paid to owner and owner-related administrators shall be equal to the ~~median of salaries paid to all non owner and non owner related administrators in facilities of comparable size. The median shall be computed by the Department from a survey of all Colorado Medicaid participating facilities conducted each January, and shall be applied to salaries for that calendar year~~ caps established in July 2012 and inflated each year using the Skilled Nursing Facility Market Basket (without capital) published by Global Insight, Inc. The latest available publication prior to July 1 rate setting shall be used to determine inflation indexes. The inflation indexes shall be revised and published every July 1 to be used for rate effective dates between July 1 and June 30. Categories of facilities, based on licensed bed capacity, for purposes of determining comparability shall be as follows: 1 74; 74 99; 100 149; 150 200 and more than 200.*

Beds	Established July 2012	Established July 2012
	Annual Salary Limit	Monthly Salary Limit
1-74	\$89,000	\$7,417
75-99	\$93,800	\$7,817
100-149	\$97,850	\$8,154
150-200	\$106,575	\$8,881
200+	\$112,008	\$9,334

b. *Owner and Owner-Related Assistant Administrator: The maximum allowable cost for such services shall be 75% of the maximum allowable salary of an owner or owner related assistant administrator of a comparable facility. No costs shall be allowable for owner or owner related assistant administrators in facilities with licensed bed capacities less than 150.*

c. *Owner and Owner-Related Physicians Performing Administrative Services: Salaries shall be an allowable cost up to the maximum established for owner and owner-related administrators in a comparable facility.*

d. *Owner and Owner-Related Nursing Directors: Salaries shall be an allowable cost up to a maximum of 65% of the maximum allowable salary of an owner or owner-related administrator of a comparable facility.*

4. *Fringe benefits for owner and owner-related employees shall be allowable costs. ~~up to a maximum established by the Department each March for that calendar year. This maximum shall be equal to the fringe benefit percentage of private employees in Colorado as determined by the survey conducted by the State Department of Personnel, minus that portion of the computation that includes holidays, vacation and sick leave days.~~*

5. *Exceptions to the application of the ~~median as the~~ maximum allowable salary limit for owner and owner-related employees shall be approved by the Department only where the nursing home can demonstrate that it has unique characteristics or the employee in question has special qualifications and experience which would make application of the median for that size facility unreasonable. Requests for exceptions shall be submitted to the Department in writing no later than 90 days prior to the end of the facility's fiscal year.*