

Title of Rule: Revision to the Medical Assistance Rules concerning Case Management and Quality Performance, Sections 8.393, 8.500, 8.600 & 8.700
Rule Number: MSB 19-04-16-A
Division / Contact / Phone: DIDD/Case Management Unit / Heather Fladmark / 5187

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).

HB 17-1343, requires the Department to implement Conflict Free Case Management (CFCM) for individuals with intellectual and developmental disabilities (I/DD). HB 17-1343 requires the Department to create a third-party entity to assist with the choice of case management agencies. The Department has completed 10 stakeholder engagements to gather feedback and recommendations. The Department along with stakeholders and expert recommendations developed qualifications for Case Management Agency and Case Manager qualifications. The Department has worked closely with stakeholders in the development of the qualifications which included 12 stakeholder meetings in various locations across the State of Colorado and in informal public comment period. This rule further defines the case management agency and case manager role, separate and distinct from eligibility and case management.

2. An emergency rule-making is imperatively necessary

- to comply with state or federal law 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. (2018);
25.5-10-211.5

Initial Review

06/14/19

Final Adoption

07/12/19

Proposed Effective Date

08/30/19

Emergency Adoption

DOCUMENT #06

Title of Rule: Revision to the Medical Assistance Rules concerning Case Management and Quality Performance, Sections 8.393, 8.500, 8.600 & 8.700

Rule Number: MSB 19-04-16-A

Division / Contact / Phone: DIDD/Case Management Unit / Heather Fladmark / 5187

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.

Individuals with Intellectual and developmental disabilities (I/DD) receiving HCBS waiver services and case management services will be affected by this rule.

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

This regulation requires the department to implement a third-party entity per statute. The budget request has been approved to implement the third-party entity this next upcoming fiscal year.

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.

This rule will impact current Community Centered Boards (CCB). The Department has intended costs and have budget approval.

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

The Department is required to complete this work pursuant to 25.5-10-211.5. The Department has predicted costs for the implementation of the third-party entity and has received a budget approval for the implementation of the third party entity.

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

The Department believes that this is the most cost-effective way and less intrusive method to move into compliance with statute. The Department has done significant stakeholder engagement to develop a way that will be less intrusive to our clients yet provide the clients with choice and to comply with statute.

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.

Title of Rule: Revision to the Medical Assistance Rules concerning Case Management and Quality Performance, Sections 8.393, 8.500, 8.600 & 8.700

Rule Number: MSB 19-04-16-A

Division / Contact / Phone: DIDD/Case Management Unit / Heather Fladmark / 5187

Alternative methods were considered as the statute requires the Department to define Case Management Agency, Case manager qualifications and to create a third-party entity to assist with case management agency selection. The Department has presented alternative methods to stakeholders to gather ideas of the best route to take that makes sense, least intrusive and person centered.

1 **8.393 FUNCTIONS OF A SINGLE ENTRY POINT AGENCY**

2 **8.393.1.A Administration of a Single Entry Point**

3 1. The SEP agency shall be required by federal or state statute, mission statement, by-laws,
4 articles of incorporation, contracts, or rules and regulations which govern the agency, to
5 comply with the following standards:

6 a. The SEP agency shall serve persons in need of LTSS programs defined in
7 Section 8.390.3;

8 b. The SEP agency shall have the capacity to accept multiple funding source public
9 dollars;

10 c. The SEP agency may contract with individuals, for-profit entities and not-for-profit
11 entities to provide some or all SEP functions;

12 d. The SEP agency may receive funds from public or private foundations and
13 corporations; and

14 e. The SEP agency shall be required to publicly disclose all sources and amounts
15 of revenue.

16 2. For individuals with intellectual or developmental disabilities seeking or receiving
17 services, the SEP will refer to the appropriate Community Center Board (CCB) for
18 programs that serve this population. In the event that the individual is eligible for both a
19 program administered by the SEP and by the CCB, the individual will have the right to
20 choose in which program that he or she will participate.

21

22

23

24 **8.500 HOME AND COMMUNITY BASED SERVICES FOR THE DEVELOPMENTALLY DISABLED**
25 **(HCB-DD) WAIVER**

26 **8.500.1** This Section hereby incorporates the terms and provisions of the federally-approved
27 Home and Community Based Services for Persons with Developmentally Disabilities waiver
28 (HCBS-DD) CO.0007.R06.00. To the extent that the terms of that federally-approved waiver are
29 inconsistent with the provisions of this sSection, the waiver will control.

30 **8.500.1 DEFINITIONS**

1 ACTIVITIES OF DAILY LIVING (ADL) means basic self-care activities including bathing, bowel and
 2 bladder control, dressing, eating, independent ambulation, and needing supervision to support behavior,
 3 medical needs and memory/cognition.

4 ADVERSE ACTION means a denial, reduction, termination or suspension from the HCBS-DD ~~W~~waiver or
 5 a HCBS ~~W~~waiver service.

6 APPLICANT means an individual who is seeking a long term ~~care- services and supports~~ eligibility
 7 determination and who has not affirmatively declined to apply for Medicaid or participate in an
 8 assessment.

9 AUDITABLE ~~-~~ means the information represented on the wavier cost report can be verified by reference
 10 to adequate documentation as required by generally accepted auditing standards.

11 Authorized Representative means an individual designated by a Client, or by the parent or guardian of the
 12 Client receiving services, if appropriate, to assist the Client receiving service in acquiring or utilizing
 13 services and supports, this does not include the duties associated with an Authorized Representative for
 14 Consumer Directed Attendant Support Services (CDASS) as defined at 8.510.1.

15 CASE MANAGEMENT AGENCY (CMA) means a public or private not-for-profit or for-profit agency that
 16 meets all applicable state and federal requirements and is certified by the Department to provide case
 17 management services for Home and Community Based Services waivers pursuant to Sections 25.5-10-
 18 209.5, C.R.S. and CRS 25.5-6-106, C.R.S. and pursuant to a provider participation agreement with the
 19 state department.

20 CLIENT means an individual who meets long-term services and support eligibility requirements and has
 21 been approved for and agreed to for an agreed to receive Home and Community Based Services
 22 (HCBS).

23 ~~CLIENT means an individual who has met long term care (LTC) eligibility requirements, is enrolled in and~~
 24 ~~chooses to receive LTC services, and receives LTC services.~~

25 CLIENT REPRESENTATIVE means a person who is designated by the Celient to act on the Celient's
 26 behalf. A client representative may be: (A) a legal representative including, but not limited to a court-
 27 appointed guardian, a parent of a minor child, or a spouse; or (B) an individual, family member or friend
 28 selected by the Celient to speak for or act on the Celient's behalf.

29 Community Centered Board means a private corporation, for-profit or not-for-profit that is designated
 30 pursuant to Section 25.5-10-209, C.R.S., responsible for, but not limited to conducting Developmental
 31 Disability determinations, waiting list management Level of Care Evaluations for Home and Community
 32 Based Service waivers specific to individuals with intellectual and developmental disabilities, and
 33 management of State Funded programs for individuals with intellectual and developmental disabilities.

34

35 ~~COMMUNITY CENTERED BOARD (CCB) means a private corporation, for profit or not for profit, which~~
 36 ~~when designated pursuant to Section 27-10.5-105, C.R.S., provides case management services to clients~~
 37 ~~with developmental disabilities, is authorized to determine eligibility of such clients within a specified~~

~~1 geographical area, serves as the single point of entry for clients to receive services and supports under
2 Section 27-10.5-101, C.R.S. et seq, and provides authorized services and supports to such clients either
3 directly or by purchasing such services and supports from service agencies.~~

4 COST CONTAINMENT means limiting the cost of providing care in the community to less than or equal to
5 the cost of providing care in an institutional setting based on the average aggregate amount. The cost of
6 providing care in the community shall include the cost of providing home and community based services
7 and Medicaid state plan benefits including long term home health services and targeted case
8 management.

9 COST EFFECTIVENESS means the most economical and reliable means to meet an identified need of
10 the Client.

11 DEPARTMENT means the Colorado Department of Health Care Policy and Financing, the single State
12 Medicaid agency.

13 DEVELOPMENTAL DELAY means as defined in Section 8.600.4.

14 DEVELOPMENTAL DISABILITY means as defined in Section 8.600.4 a disability that is manifested
15 before the person reaches twenty two (22) years of age, which constitutes a substantial disability to the
16 affected individual, and is attributable to mental retardation intellectual and developmental or disability or
17 related conditions which include Prader-Willi syndrome, cerebral palsy, epilepsy, autism or other
18 neurological conditions when such conditions result in impairment of general intellectual functioning or
19 adaptive behavior similar to that of a person with mental retardation intellectual and developmental
20 disability. Unless otherwise specifically stated, the federal definition of "developmental disability" found in
21 42 U.S.C. § 600015002, et seq., shall not apply.

22 "Impairment of General Intellectual Functioning" means that the person has been determined to have an
23 intellectual quotient equivalent which is two or more standard deviations below the mean (seventy (70) or
24 less assuming a scale with a mean of 100 and a standard deviation of fifteen (15)), as measured by an
25 instrument which is standardized, appropriate to the nature of the person's disability, and administered by
26 a qualified professional. The standard error of measurement of the instrument should be considered when
27 determining the intellectual quotient equivalent. When an individual's general intellectual functioning
28 cannot be measured by a standardized instrument, then the assessment of a qualified professional shall
29 be used.

30 "Adaptive Behavior Similar to That of a Person With Mental Retardation intellectual and developmental
31 disability" means that the person has overall adaptive behavior which is two or more standard deviations
32 below the mean in two or more skill areas (communication, self-care, home living, social skills, community
33 use, self-direction, health and safety, functional academics, leisure, and work), as measured by an
34 instrument which is standardized, appropriate to the person's living environment, and administered and
35 clinically determined by a qualified professional. These adaptive behavior limitations are a direct result of,
36 or are significantly influenced by, the person's substantial intellectual deficits and may not be attributable
37 to only a physical or sensory impairment or mental illness.

38 "Substantial Intellectual Deficits" means an intellectual quotient that is between seventy-one (71) and
39 seventy five (75) assuming a scale with a mean of one hundred (100) and a standard deviation of fifteen
40 (15), as measured by an instrument which is standardized, appropriate to the nature of the person's

1 disability, and administered by a qualified professional. The standard error of measurement of the
2 instrument should be considered when determining the intellectual quotient equivalent.

3 ~~DIVISION FOR DEVELOPMENTAL DISABILITIES (DDD) means the Operating Agency for Home and~~
4 ~~Community Based Services for persons with Developmental Disabilities (HCBS-DD) within the Colorado~~
5 ~~Department of Human Services.~~

6 **EARLY AND PERIODIC SCREENING, DIAGNOSIS AND TREATMENT (EPSDT) means as defined in**
7 **8.280.1. the child health component of Medicaid State Plan for Medicaid eligible children up to the age of**
8 **twenty-one (21).**

9 FAMILY means a relationship as it pertains to the eClient and is defined as:

10 A mother, father, brother, sister; ~~or, any combination,~~

11 Extended blood relatives such as grandparent, aunt, uncle, ~~cousin; or cousin; or,~~

12 An adoptive parent; ~~or,~~

13 One or more individuals to whom legal custody of a Client with a developmental disability has
14 been given by a court; ~~or,~~

15 A spouse; or,

16 The Client's children.

17 FUNCTIONAL ELIGIBILITY means that the applicant meets the criteria for long term ~~care~~ services and
18 supports as determined by the Department's prescribed instrument.

19 FUNCTIONAL NEEDS ASSESSMENT means a comprehensive face-to-face evaluation using the
20 Uniform Long Term Care instrument and medical verification on the Professional Medical Information
21 Page to determine if the Client meets the institutional Llevel of Ccare (LOC).

22 GROUP RESIDENTIAL SERVICES AND SUPPORTS (GRSS) means residential habilitation provided in
23 group living environments of four (4) to eight (8) Clients receiving services who live in a single residential
24 setting, which is licensed by the Colorado Department of Public Health and Environment as a residential
25 care facility or residential community home for persons with developmental disabilities, ~~and certified by~~
26 ~~the Operating Agency.~~

27 **GUARDIAN means a person who has qualified as a guardian of a minor or incapacitated person pursuant**
28 **to testamentary or court appointment but excludes one who is merely as a Guardian Ad Litem (C.R.S. 15-**
29 **10-201).**

30 ~~GUARDIAN means an individual at least twenty-one years (21) of age, resident or non-resident, who has~~
31 ~~qualified as a guardian of a minor or incapacitated client pursuant to appointment by a court.~~
32 ~~Guardianship may include limited, emergency or temporary substitute court appointed guardian but not a~~
33 ~~guardian ad litem.~~

1 ~~Home And Community Based Services (HCBS) Waiver~~ HOME AND COMMUNITY BASED SERVICES
 2 (HCBS) WAIVER -means services and supports authorized through a 1915(c) waiver of the Social
 3 Security Act and provided in community settings to a Celient who requires a level of institutional care that
 4 would otherwise be provided in a hospital or, nursing facility for individuals with intellectual disabilities
 5 (ICF-IDD) or intermediate care facility for the mentally retarded (ICF-MR).

6 INDIVIDUAL RESIDENTIAL SERVICES AND SUPPORTS (IRSS) means residential habilitation services
 7 provided to three (3) or fewer Celients in a single residential setting or in a host home setting that does
 8 not require licensure by the Colorado Department of Public Health and Environment. ~~IRSS settings are~~
 9 ~~certified by the Operating Agency.~~

10 ~~LEGALLY RESPONSIBLE PERSON means the parent of a minor child, or the client's spouse.~~

11 INSTITUTION means a hospital, nursing facility, ~~or Intermediate Care Facility for the Mentally Retarded~~
 12 ~~(ICF-MR) or intermediate care facility for individuals with intellectual disabilities (ICF-IDD)~~ for which the
 13 Department makes Medicaid payment under the Medicaid State Plan.

14 INTERMEDIATE CARE FACILITY FOR INDIVIDUALS WITH INTELLECXTUAL DISABILITIES (ICF-IID)
 15 ~~THE MENTALLY RETARDED (ICF-MR)~~ means a publicly or privately operated facility that provides
 16 health and habilitation services to a Celient with ~~mental retardation~~ an intellectual or developmental
 17 disability or related conditions.

18 LEGALLY RESPONSIBLE PERSON means the parent of a minor child, or the Client's spouse.

19

20 LEVEL OF CARE (LOC) means the specified minimum amount of assistance a Celient must require in
 21 order to receive services in an institutional setting under the Medicaid State Plan.

22 LONG TERM SERVICES AND SUPPORTS (LTSS) means the services and supports used by individuals
 23 of all ages with functional limitations and chronic illnesses who need assistance to perform routine daily
 24 activities. such as bathing, dressing, preparing meals and administering medications.

25 ~~LONG TERM CARE (LTC) SERVICES means services provided in nursing facilities or intermediate care~~
 26 ~~facilities for the mentally retarded (ICF-MR), or home and community based services (HCBS), long term~~
 27 ~~home health services or the program of all inclusive care for the elderly (PACE), swing bed and hospital~~
 28 ~~back-up program (HBU).~~

29 MEDICAID ELIGIBLE means an applicant or Celient meets the criteria for Medicaid benefits based on
 30 the applicant's financial determination and disability determination when applicable.

31 MEDICAID STATE PLAN means the federally approved document that specifies the eligibility groups that
 32 a state serves through its Medicaid program, the benefits that the state covers, and how the state
 33 addresses additional federal Medicaid statutory requirements concerning the operation of its Medicaid
 34 program.

1 MEDICATION ADMINISTRATION means assisting a Celient in the ingestion, application or inhalation of
2 medication, including prescription and non-prescription drugs, according to the directions of the attending
3 physician or other licensed health practitioner and making a written record thereof.

4 NATURAL SUPPORTS means non paid informal relationships that provide assistance and occur in the
5 Celient's everyday life including, but not limited to, community supports and relationships with family
6 members, friends, co-workers, neighbors and acquaintances.

7 ~~OPERATING AGENCY means the Department of Human Services, Division for Developmental~~
8 ~~Disabilities, which manages the operations of the Home and Community Based Services for persons with~~
9 ~~Developmental Disabilities (HCBS-DD), HCBS-Supported Living Services (HCBS-SLS) and HCBS-~~
10 ~~Children's Extensive Supports (HCBS-CES) waivers under the oversight of the Department of Health~~
11 ~~Care Policy and Financing.~~

12 ORGANIZED HEALTH CARE DELIVERY SYSTEM (OHCD) means a public or privately managed
13 service organization that provides, at minimum, targeted case management and contracts with other
14 qualified providers to furnish services authorized in the Home and Community Based Services for
15 Persons with Developmental Disabilities (HCBS-DD), HCBS-Supported Living Services (HCBS-SLS)
16 and HCBS-Children's Extensive Supports (HCBS-CES) waivers.

17 POST ELIGIBILITY TREATMENT OF INCOME (PETI) means the determination of the financial liability of
18 an HCBS Waiver client as defined in 42 CFR § 435.217.

19 PRIOR AUTHORIZATION means approval for an item or service that is obtained in advance either from
20 the Department, ~~the Operating Agency~~, a State Fiscal Agent or the Case Management Agency.

21 PROFESSIONAL MEDICAL INFORMATION PAGE (PMIP) means the medical information document
22 signed by a licensed medical professional used as a component of the LOC-level of care evaluation to
23 determine ~~at~~ the Client's need for LTSS ~~program~~.

24 ~~PROFESSIONAL MEDICAL INFORMATION PAGE (PMIP) means the medical information form signed~~
25 ~~by a licensed medical professional used to verify the client needs institutional level of care.~~

26 PROGRAM APPROVED SERVICE AGENCY means a developmental disabilities service agency or
27 typical community service agency as defined in 102 CCR 5032505-10-16-2008.600.4 et seq., that has
28 received program approval to provide HCBS-DD Wwaiver services.

29 PUBLIC CONVEYANCE means public passenger transportation services that are available for use by the
30 general public as opposed to modes for private use, including vehicles for hire.

31 RELATIVE means a person related to the Celient by virtue of blood, marriage, adoption or common law
32 marriage.

33 RETROSPECTIVE REVIEW means the Department or the Department's contractor's or the Operating
34 Agency's review after services and supports are provided to ensure the Celient received services
35 according to the service support plan and standards of economy, efficiency and quality of service and that
36 the Case Management Agency complied with the requirements set forth in statute, waiver and regulation.

1 SERVICE PLAN means the written document that specifies identified and needed services, to include
2 Medicaid and non-Medicaid services regardless of funding source, to assist a Celient to remain safely in
3 the community and developed in accordance with the Department's s and the Operating Agency's rules.

4 set forth in 10 CCR 2505-10 Section 8.400.

5 STATE AND LOCAL GOVERNMENT HCBS WAIVER PROVIDER: means the state owned and operated
6 agency providing home and community based services (HCBS waiver services) to Celients enrolled in the
7 HCBS waiver for Persons with Developmental Disabilities.

8 SUPPORT is any task performed for the Celient where learning is secondary or incidental to the task itself
9 or an adaptation is provided.

10 SUPPORTS INTENSITY SCALE (SIS) means the standardized assessment tool that gathers information
11 from a semi-structured interview of respondents who know the elclient well. It is designed to identify and
12 measure the practical support requirements of adults with developmental disabilities.

13 Targeted Case Management (TCM) means case management services provided to individuals enrolled in
14 the HCBS-CES, HCBS- Children Habilitation Residential Program (CHRP), HCBS-DD, and HCBS-SLS
15 waivers in accordance with Section 8.760 et seq. Targeted case management includes facilitating
16 enrollment, locating, coordinating and monitoring needed HCBS waiver services and coordinating with
17 other non-waiver resources, including, but not limited to medical, social, educational and other resources
18 to ensure non-duplication of waiver services and the monitoring of effective and efficient provision of
19 waiver services across multiple funding sources. Targeted case management includes the following
20 activities; comprehensive assessment and periodic reassessment, development and periodic revision of a
21 Service Plan, referral and related activities, and monitoring.

22 TARGETED CASE MANAGEMENT (TCM) means a Medicaid State Plan benefit for a target population
23 which includes facilitating enrollment, locating, coordinating and monitoring needed HCBS waiver
24 services and coordinating with other non-waiver resources, including, but not limited to medical, social,
25 educational and other resources to ensure nonduplication of waiver services and the monitoring of
26 effective and efficient provision of waiver services across multiple funding sources.

27 THIRD PARTY RESOURCES means services and supports that a Celient may receive from a variety of
28 programs and funding sources beyond natural supports or Medicaid. That They may include, but are
29 not limited to, community resources, services provided through private insurance, non-profit services and
30 other government programs.

31 WAIVER SERVICE means optional services defined in the current federally approved HCBS waiver
32 documents and do not include Medicaid State Plan benefits.

33
34
35
36 **8.500.6 SERVICE PLAN**

1 8.500.6.A The Case Management Agency shall complete a Service Plan for each Client enrolled in
2 the HCBS-DD ~~W~~waiver in accordance with ~~10-CCR-2505-10~~ Section 8.519.11.B.2400.

3 ~~8.500.6.B The Service Plan shall:~~

4 ~~1. Address client's assessed needs and personal goals, including health and safety risk~~
5 ~~factors, either by waiver services or through other means,~~

6 ~~2. Be in accordance with the Department's rules, policies and procedures, and~~

7 ~~3. Include updates and revisions at least annually or when warranted by changes in the~~
8 ~~client's needs.~~

9 ~~8.500.6.C The Service Plan shall document that the client has been offered a choice:~~

10 ~~1. Between waiver services and institutional care,~~

11 ~~2. Among waiver services, and~~

12 ~~3. Among qualified providers.~~

13
14
15 **8.500.12 PRIOR AUTHORIZATION REQUESTS**

16 8.500.12.A Prior Authorization Requests (PAR) shall be in accordance with ~~10-CCR-2505-10,~~
17 Section ~~8.519.14058.~~

18 ~~8.500.12.B A PAR shall be submitted to the Operating Agency through the Department's designated~~
19 ~~information management system.~~

20 ~~8.500.12.C The Case Management Agency shall comply with the policies and procedures for the~~
21 ~~PAR review process as set forth by the Department and the Operating Agency.~~

22 ~~8.500.12.D The Case Management Agency shall submit the PAR in compliance with all applicable~~
23 ~~regulations and ensure requested services are:~~

24 ~~1. Consistent with the client's documented medical condition and functional capacity as~~
25 ~~indicated in the functional needs assessment,~~

26 ~~2. Adequate in amount, frequency and duration in order to meet the client's needs and~~
27 ~~within the limitations set forth in the current federally approved waiver, and~~

28 ~~3. Not duplicative of another authorized service, including services provided through:~~

29 ~~a. Medicaid State Plan benefits,~~

1 ~~b. Third party resources,~~

2 ~~c. Natural supports,~~

3 ~~d. Charitable organizations, or~~

4 ~~e. Other public assistance programs.~~

5 ~~4. Services delivered without prior authorization shall not be reimbursed except for provision~~
 6 ~~of services during an emergency pursuant to 10 CCR 2505-10, Section 8.058.4.~~

7
8
9
10 **8.500.16 APPEAL RIGHTS**

11 The Case Management Agency shall meet the requirements set forth at Section 8.519.22.

12 8.500.16.A The CCB shall provide the long term care notice of action form to applicants and Clients
 13 within ~~ten~~eleven (4011) business days regarding their appeal rights in accordance with ~~10 CCR~~
 14 ~~2505-10~~, Section 8.057 *et seq.* When:

15 1. The Client or applicant is determined to not have a developmental disability,

16 2. The Client or applicant is found eligible or ineligible for ~~LTSS~~LTC services,

17 3. The eClient or applicant is determined eligible or ineligible for placement on a waiting list
 18 for Medicaid LTC services~~LTSS~~,

19 4. An adverse action occurs that affects the Client's or applicant's waiver enrollment
 20 status,

21 ~~5. An adverse action occurs that affects the provision of the client's waiver services, or~~

22 ~~6. The applicant or client requests such information.~~

23 8.500.16.B The CCB shall ~~appear and defend~~represent ~~its~~their decision at the Office of
 24 Administrative Courts as described in ~~10 CCR 2505-10~~, Section 8.057 *et seq.* when the CCB has
 25 made a denial or adverse action against a eClient.

26 8.500.16.C The CCB shall notify ~~all providers~~the Case Management Agency in the client's service
 27 plan within one~~ten~~ (10) business day of the adverse action.

1 8.500.16.D The CCB shall notify the County Department of Human/Social Services income
2 maintenance technician within ten (10) business day of an adverse action that affects Medicaid
3 financial eligibility.

4 8.500.16.E The applicant or Celient shall be informed of an adverse action if the Celient or applicant
5 is determined ineligible ~~as set forth in client eligibility~~ and the following:

6 ~~1. The client cannot be served safely within the cost containment as identified in the HCBS-~~
7 ~~DD Waiver,~~

8 ~~2. The client is placed in an institution for treatment with a duration that continues for more~~
9 ~~than thirty (30) days,~~

10 ~~13.~~ The Celient or applicant is detained or resides in a correctional facility, or

11 ~~24.~~ The Celient or applicant enters an institute for mental health with a duration that
12 continues for more than thirty (30) days.

13 ~~8.500.16.F The client shall be notified, pursuant to 10 CCR 2502-10 Section 8.057.2.A, when the~~
14 ~~following results in an adverse action that does not relate to HCBS-DD Waiver client eligibility~~
15 ~~requirements:~~

16 ~~1. A waiver service is reduced, terminated or denied because it is not a demonstrated need~~
17 ~~in the functional needs assessment,~~

18 ~~2. A waiver service is terminated or denied because is not available through the current~~
19 ~~federally approved waiver,~~

20 ~~3. A service plan or waiver service exceeds the limits as set forth in the in the federally-~~
21 ~~approved waiver,~~

22 ~~4. The client or client representative has failed to schedule an appointment for the functional~~
23 ~~needs assessment, service plan, or six (6) month visit with the case manager two (2)~~
24 ~~times in a thirty (30) day consecutive period,~~

25 ~~5. The client or client representative has failed to keep three (3) scheduled assessment~~
26 ~~appointments within a thirty (30) consecutive day period,~~

27 ~~6. The client enrolls in a different long term care program, or~~

28 ~~7. The client moves out of state. The client shall be discontinued effective upon the day~~
29 ~~after the date of the move.~~

30 ~~a. A client who leaves the state on a temporary basis, with intent to return to~~
31 ~~Colorado, according to Income Maintenance Staff Manual at 9 CCR 2503-1,~~
32 ~~Section 3.140.2., shall not be terminated unless one or more of the other client~~
33 ~~eligibility criteria are no longer met.~~

1 ~~8. The client voluntarily withdraws from the waiver program. The client shall be terminated~~
 2 ~~from the waiver effective upon the day after the date on which the client's request is~~
 3 ~~documented.~~

4 ~~8.500.16.G The CCB shall not send the LTC notice of action form when the basis for termination is~~
 5 ~~death of the client, but shall document the event in the client record. The date of action shall be~~
 6 ~~the day after the date of death.~~

10 **8.500.90 SUPPORTED LIVING SERVICES WAIVER (SLS)**

11 The section hereby incorporates the terms and provisions of the federally approved Home and
 12 Community Based Supported Living Services (HCBS-SLS) ~~Waiver, CO-0293~~. To the extent that the
 13 terms of the federally approved waiver are inconsistent with the provisions of this section, the waiver shall
 14 control.

15 HCBS-SLS services and supports which are available to assist persons with intellectual or developmental
 16 disabilities to live in the person's own home, apartment, family home, or rental unit that qualifies as an
 17 HCBS-SLS setting. HCBS-SLS waiver services are not intended to provide twenty four (24) hours of paid
 18 support or meet all identified Client needs and are subject to the availability of appropriate services and
 19 supports within existing resources.

20 8.500.90 DEFINITIONS

21 ACTIVITIES OF DAILY LIVING (ADL) means basic self-care activities including bathing, bowel and
 22 bladder control, dressing, eating, independent ~~ambulation,~~ ambulation, and needing supervision to
 23 support behavior, medical needs and memory/cognition.

24 ADVERSE ACTION means a denial, reduction, termination or suspension from the HCBS-SLS waiver or
 25 a specific HCBS-SLS waiver service(s).

26 APPLICANT means an individual who is seeking a ~~Long Term Care~~ long-term services and supports
 27 eligibility determination and who has not affirmatively declined to apply for Medicaid or participate in aan
 28 assessment.

29 Authorized Representative means an individual designated by a Client, or by the parent or guardian of the
 30 Client receiving services, if appropriate, to assist the Client receiving service in acquiring or utilizing
 31 services and supports, this does not include the duties associated with an Authorized Representative for
 32 Consumer Directed Attendant Support Services (CDASS) as defined at 8.510.1.

33 CASE MANAGEMENT AGENCY(CMA) means a public or private not-for-profit or for-profit agency that
 34 meets all applicable state and federal requirements and is certified by the Department to provide case
 35 management services for Home and Community Based Services waivers pursuant to Section 25.5-10-

- 1 ~~209.5 and CRS 25.5-6-106, C.R.S. and pursuant to a provider participation agreement with the state~~
2 ~~department.~~
- 3 CLIENT means an individual who meets long-term services and supports eligibility requirements and has
4 been approved for and agreed to receive Home and Community Based Services (HCBS).
- 5 ~~CLIENT means an individual who has met Long Term Care (LTC) eligibility requirements, is enrolled in~~
6 ~~and chooses to receive LTC services, and subsequently receives LTC services.~~
- 7 CLIENT REPRESENTATIVE means a person who is designated by the Celient to act on the Celient's
8 behalf. A Celient representative may be: (Aa) a legal representative including, but not limited to a court-
9 appointed guardian, a parent of a minor child, or a spouse; or, (Bb) an individual, family member or friend
10 selected by the eCelient to speak for and/or act on the Celient's behalf.
- 11 Community Centered Board means a private corporation, for-profit or not-for-profit that is designated
12 pursuant to Section 25.5-10-209, C.R.S., responsible for, but not limited to conducting Developmental
13 Disability determinations, waiting list management Level of Care Evaluations for Home and Community
14 Based Service waivers specific to individuals with intellectual and developmental disabilities, and
15 management of State Funded programs for individuals with intellectual and developmental disabilities.
- 16 ~~C.R.S.~~
- 17 ~~COMMUNITY CENTERED BOARD (CCB) means a private corporation, for profit or not for profit, which~~
18 ~~when designated pursuant to Section 27-10.5105, C.R.S., provides case management services to clients~~
19 ~~with developmental disabilities, is authorized to determine eligibility of such clients within a specified~~
20 ~~geographical area, serves as the single point of entry for clients to receive services and supports under~~
21 ~~Section 27-10.5-105, C.R.S. et seq, and provides authorized services and supports to such persons~~
22 ~~either directly or by purchasing such services and supports from service agencies.~~
- 23 CONSUMER DIRECTED ATTENDANT SUPPORT SERVICES (CDASS) means the service delivery
24 option for services that assist an individual in accomplishing activities of daily living when included as a
25 waiver benefit that may include health maintenance, personal care and homemaker activities.
- 26 ~~means the service delivery option set forth at section 8.510. et. seq~~
- 27 COST CONTAINMENT means limiting the cost of providing care in the community to less than or equal to
28 the cost of providing care in an institutional setting based on the average aggregate amount. The cost of
29 providing care in the community shall include the cost of providing Home and Community Based
30 Services, and Medicaid State Plan Benefits including long-term home health services~~Long Term Home~~
31 ~~Health services~~, and targeted case management.
- 32 COST EFFECTIVENESS means the most economical and reliable means to meet an identified need of
33 the Celient.
- 34 DEPARTMENT means the Colorado Department of Health Care Policy and Financing, the single State
35 Medicaid agency.
- 36 DEVELOPMENTAL DELAY means as defined in Section 8.600.4.

1 ~~DEVELOPMENTAL DISABILITY means as defined in Section 8.600.4. DEVELOPMENTAL DISABILITY~~
 2 ~~means a disability that is manifested before the person reaches twenty-two (22) years of age, which~~
 3 ~~constitutes a substantial disability to the affected individual, and is attributable to an intellectual and~~
 4 ~~developmental disability or related conditions which includes Prader-Willi syndrome, cerebral palsy,~~
 5 ~~epilepsy, autism or other neurological conditions when such conditions result in impairment of general~~
 6 ~~intellectual functioning or adaptive behavior similar to that of a person with an intellectual and~~
 7 ~~developmental disability. Unless otherwise specifically stated, the federal definition of "developmental~~
 8 ~~disability" found in 42 U.S.C. § 15002, et seq., shall not apply.~~ means a disability that is manifested before
 9 the person reaches twenty-two (22) years of age, which constitutes a substantial disability to the affected
 10 individual, and is attributable to mental retardation or related conditions which include cerebral palsy,
 11 epilepsy, autism or other neurological conditions when such conditions result in impairment of general
 12 intellectual functioning or adaptive behavior similar to that of a person with mental retardation. Unless
 13 otherwise specifically stated, the federal definition of "Developmental Disability" found in 42 U.S.C.,
 14 Section 6000, et seq., shall not apply.

15 Impairment of general intellectual functioning" means that the person has been determined to
 16 have an intellectual quotient equivalent which is two or more standard deviations below the mean
 17 (Seventy (70) or less assuming a scale with a mean of one hundred (100) and a standard
 18 deviation of fifteen (15)), as measured by an instrument which is standardized, appropriate to the
 19 nature of the person's disability, and administered by a qualified professional. The standard error
 20 of measurement of the instrument should be considered when determining the intellectual
 21 quotient equivalent. When an individual's general intellectual functioning cannot be measured by
 22 a standardized instrument, then the assessment of a qualified professional shall be used.

23 Adaptive behavior similar to that of a person with ~~intellectual and developmental disability~~ mental
 24 retardation means that the person has overall adaptive behavior which is two or more standard
 25 deviations below the mean in two or more skill areas (communication, self-care, home living,
 26 social skills, community use, self-direction, health and safety, functional academics, leisure, and
 27 work), as measured by an instrument which is standardized, appropriate to the person's living
 28 environment, and administered and clinically determined by a qualified professional. These
 29 adaptive behavior limitations are a direct result of, or are significantly influenced by, the person's
 30 substantial intellectual deficits and may not be attributable to only a physical or sensory
 31 impairment or mental illness.

32 Substantial intellectual deficits means an intellectual quotient that is between seventy one (71)
 33 and seventy five (75) assuming a scale with a mean of one hundred 100 and a standard deviation
 34 of fifteen (15), as measured by an instrument which is standardized, appropriate to the nature of
 35 the person's disability, and administered by a qualified professional. The standard error of
 36 measurement of the instrument should be considered when determining the intellectual quotient
 37 equivalent.

38 ~~DIVISION FOR DEVELOPMENTAL DISABILITIES (DDD) means the Operating Agency for Home and~~
 39 ~~Community Based Services-Supported Living Services (HCBS-SLS) to persons with developmental~~
 40 ~~disabilities within the Colorado Department of Human Services.~~

41 **EARLY AND PERIODIC SCREENING AND DIAGNOSIS AND TREATMENT (EPSDT) means as defined**
 42 **in 8.280.1, the child health component of the Medicaid State Plan for Medicaid eligible children up to age**
 43 **21.**

1 FAMILY means a relationship as it pertains to the Client and includes the following:

2 A mother, father, brother, sister; or,

3 Extended blood relatives such as grandparent, aunt, ~~or~~ uncle, cousin; or

4 ~~Cousins or,~~

5 An adoptive parent; or,

6 One or more individuals to whom legal custody of a eClient with a developmental disability has
7 been given by a court; or,

8 A spouse; or

9 The eClient's children.

10 FUNCTIONAL ELIGIBILITY means that the applicant meets the criteria for long-term services and
11 supports ~~Long Term Care services~~ as determined by the Department's prescribed instrument.

12 FUNCTIONAL NEEDS ASSESSMENT means a comprehensive face-to-face evaluation using the
13 ~~u~~Uniform Long Term Care instrument and medical verification on the professional medical information
14 page to determine if the applicant or eClient meets the institutional Level of eCare (LOC).

15 **GUARDIAN means a person who has qualified as a guardian of a minor or incapacitated person pursuant**
16 **to testamentary or court appointment but excludes ~~one who is merely a~~ Guardian Ad Litem (C.R.S. 15-10-**
17 **~~201)~~, an individual at least twenty-one (21) years of age, resident or non-resident, who has qualified as a**
18 **guardian of a minor or incapacitated client pursuant to appointment by a court. Guardianship may include**
19 **a limited, emergency, and temporary substitute guardian but not a guardian ad litem.**

20 HOME AND COMMUNITY BASED SERVICES (HCBS) WAIVERS means services and supports
21 authorized through a 1915(c) waiver of the Social security act and provided in community settings to
22 a Client who requires a level of institutional care that would otherwise be provided in a hospital, nursing
23 facility or intermediate Care facility for Individuals with Intellectual Disabilities (ICF-IID)~~the mentally~~
24 ~~retarded (ICF-MR).~~

25 INSTITUTION means a hospital, nursing facility, or intermediate eCare facility for Individuals with
26 Intellectual Disabilities (ICF-IID)~~the mentally retarded (ICF-MR)~~ for which the Department makes
27 Medicaid payment under the Medicaid State plan.

28 INTERMEDIATE CARE FACILITY FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES (ICF-IID)
29 THE MENTALLY RETARDED (ICF-MR) means a public or private facility that provides health and
30 habilitation services to a Client with intellectual or developmental disabilities or related conditions.

31 LEGALLY RESPONSIBLE PERSON means the parent of a minor child, or the Client's spouse.

32 LEVEL OF CARE (LOC) means the specified minimum amount of assistance that a Client must require
33 in order to receive services in an institutional setting under the state plan.

1 LONG-TERM SERVICES AND SUPPORTS (LTSS) means the services and supports used by individuals
 2 of all ages with functional ~~limitations~~limitations and chronic illness who need assistance to perform
 3 routine daily activities such as bathing, dressing, preparing meals, and administering medications.

4 ~~LONG TERM CARE (LTC) SERVICES means services provided in nursing facilities or intermediate care~~
 5 ~~facilities for the mentally retarded (ICF-MR), or home and community based services (HCBS), long-term~~
 6 ~~home health services, swing bed and hospital back-up program (HBU).~~

7 **MEDICAID ELIGIBLE means an applicant or Client meets the criteria for Medicaid benefits based on the**
 8 **applicant's financial determination and disability determination when applicable.**

9 MEDICAID STATE PLAN means the federally approved document that specifies the eligibility groups that
 10 a state serves through its Medicaid program, the benefits that the State covers, and how the State
 11 addresses additional Federal Medicaid statutory requirements concerning the operation of its Medicaid
 12 program.

13 MEDICATION ADMINISTRATION means assisting a Client in the ingestion, application or inhalation of
 14 medication, including prescription and non-prescription drugs, according to the directions of the attending
 15 physician or other licensed health practitioner and making a written record thereof.

16 **NATURAL SUPPORTS means non paid informal relationships that provide assistance and occur in a**
 17 **Client's everyday life including, but not limited to, community supports and relationships with family**
 18 **members, friends, co-workers, neighbors and acquaintances.**

19 ~~OPERATING AGENCY means the Department of HEALTH CARE POLICY AND FINANCING, IN THE~~
 20 ~~DIVISION FOR INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, which manages the operations~~
 21 ~~of the Home and Community Based Services for persons with Developmental Disabilities (HCBS-DD),~~
 22 ~~HCBS-Supported Living Services (HCBS-SLS) and HCBS-Children's Extensive Supports (HCBS-CES)~~
 23 ~~waivers under the oversight of the Department of Health Care Policy and Financing.~~

24 ORGANIZED HEALTH CARE DELIVERY SYSTEM (OHCD) means a public or privately managed
 25 service organization that provides, at minimum, targeted case management and contracts with other
 26 qualified providers to furnish services authorized in the Home and Community Based Services for
 27 Persons with Developmental Disabilities the Developmentally Disabled (HCBS-DD), Home and
 28 Community Based Services Supported Living Services (HCBS-SLS) and Home and Community Based
 29 Services Children's Extensive Support (HCBS-CES) waivers.

30 **POST ELIGIBILITY TREATMENT OF INCOME (PETI) means the determination of the financial liability of**
 31 **an HCBS waiver client as defined in 42 C.F.R 435.217.**

32 PRIOR AUTHORIZATION means approval for an item or service that is obtained in advance either from
 33 the Department, ~~the Operating Agency~~, a State fiscal agent or the case management agency.

34 PROFESSIONAL MEDICAL INFORMATION PAGE (PMIP) means the medical information document
 35 signed by a licensed medical professional used as a component of the Level of Care evaluation to
 36 determine the Clients need for LTSS program.

- 1 ~~PROFESSIONAL MEDICAL INFORMATION PAGE (PMIP) means the medical information form signed~~
2 ~~by a licensed medical professional used to verify the client needs institutional level of care.~~
- 3 PROGRAM APPROVED SERVICE AGENCY means a developmental disabilities service agency or
4 typical community service agency as defined in 2 CCR 503-1, Section 16.200 ~~et seq., seq.,~~ that has
5 received program approval to provide HCBS-SLS services.
- 6 PUBLIC CONVEYANCE means public passenger transportation services that are available for use by the
7 general public as opposed to modes for private use including vehicles for hire.
- 8 ~~REIMBURSEMENT RATES~~ ~~Reimbursement rates~~ means the maximum allowable Medicaid reimbursement
9 to a provider for each unit of service.
- 10 RELATIVE means a person related to the Celient by virtue of blood, marriage, adoption or common law
11 marriage.
- 12 RETROSPECTIVE REVIEW means the Department or the Department's ~~contractor or the Operating~~
13 ~~Agency's~~ review after services and supports are provided to ensure the Celient received services
14 according to the service plan ~~and standards of economy, efficiency and quality of service~~ and that the
15 Case Management Agency complied with requirements set forth in statute, waiver and regulation.
- 16 SERVICE DELIVERY OPTION means the method by which direct services are provided for a Celient and
17 ~~participant. these options include: include~~ a) by an agency and .b) eClient~~participant~~ directed.
- 18 SERVICE PLAN means the written document that specifies identified and needed services to include
19 Medicaid eligible and non-Medicaid eligible services, regardless of funding source, to assist a Celient to
20 remain safely in the community and developed in accordance with the Department's rules. and the
21 ~~Operating Agency's rules set forth in 10 CCR 2505-10, Section 8.400.~~
- 22
- 23 ~~SERVICE PLAN AUTHORIZATION LIMIT (SPAL) means an annual upper payment limit of total funds~~
24 ~~available to purchase services to meet the Client's ongoing needs. Purchase of services not subject to~~
25 ~~the SPAL are set forth at Ssection 8.500.102.B (10 C.C.R. 2505-10). A specific limit is assigned to each~~
26 ~~of the six support levels in the HCBS-SLS waiver. The SPAL is determined by the Department based on~~
27 ~~the annual appropriation for the HCBS-SLS waiver, the number of Clients in each level, and projected~~
28 ~~utilization.~~
- 29 ~~SERVICE PLAN AUTHORIZATION LIMIT (SPAL) means an annual upper payment limit of total funds~~
30 ~~available to purchase services to meet the client's ongoing needs. Each SPAL is determined by the~~
31 ~~Department and Operating Agency based on the annual appropriation for the HCBS-SLS waiver, the~~
32 ~~number of clients in each level, and projected utilization.~~
- 33 SUPPORT is any task performed for the Celient where learning is secondary or incidental to the task itself
34 or an adaptation is provided.

1 SUPPORTS INTENSITY SCALE (SIS) means the standardized assessment tool that gathers information
 2 from a semi- structured interview of respondents who know the Client well. It is designed to identify and
 3 measure the practical support requirements of adults with developmental disabilities.

4 “SUPPORT LEVEL” means a numeric value determined using an algorithm that places Clients into
 5 groups with other eClients who have similar overall support needs.

6 Targeted Case Management (TCM) means case management services provided to individuals enrolled in
 7 the HCBS-CES, HCBS- Children Habilitation Residential Program (CHRP), HCBS-DD, and HCBS-SLS
 8 waivers in accordance with Section 8.760 et seq. Targeted case management includes facilitating
 9 enrollment, locating, coordinating and monitoring needed HCBS waiver services and coordinating with
 10 other non-waiver resources, including, but not limited to medical, social, educational and other resources
 11 to ensure non-duplication of waiver services and the monitoring of effective and efficient provision of
 12 waiver services across multiple funding sources. Targeted case management includes the following
 13 activities; comprehensive assessment and periodic reassessment, development and periodic revision of a
 14 Service Plan, referral and related activities, and monitoring.

15 ~~TARGETED CASE MANAGEMENT (TCM) means a Medicaid State plan benefit for a target population~~
 16 ~~which includes facilitating enrollment, locating, coordinating and monitoring needed HCBS waiver~~
 17 ~~services and coordinating with other non-waiver resources such as medical, social, educational and~~
 18 ~~other resources to ensure non-duplication of waiver services and the monitoring of effective and efficient~~
 19 ~~provision of waiver services across multiple funding sources.~~

20 THIRD PARTY RESOURCES means services and supports that a Client may receive from a variety of
 21 programs and funding sources beyond natural supports or Medicaid that may include, but are not limited
 22 to community resources, services provided through private insurance, non-profit services and other
 23 government programs.

24 WAIVER SERVICE means optional services defined in the current federally approved HCBS waiver
 25 documents and do not include Medicaid State plan benefits.

26
 27
 28
 29 **8.500.95 SERVICE PLAN:**

30 The Case Management Agency shall complete a service plan for each Client enrolled in the
 31 HCBS-SLS waiver in accordance with Section 8.519.11.B.2

32 ~~**8.500.95.A** — The case management agency shall complete a service plan for each client~~
 33 ~~enrolled in the HCBS Waiver in accordance with 10 CCR 2505-10, Section 8.400.~~

34 ~~**8.500.95.B** — The service plan shall:~~

1 ~~1. Address client's assessed needs and personal goals, including health and safety risk~~
2 ~~factors, either by waiver services or through other means,~~

3 ~~2. Be in accordance with the Department's rules, policies and procedures, and~~

4 ~~3. Include updates and revisions at least annually or when warranted by changes in the~~
5 ~~client's needs.~~

6 ~~8.500.95.C The service plan shall document that the client has been offered a choice:~~

7 ~~1. Between waiver services and institutional care,~~

8 ~~2. Among waiver services, and~~

9 ~~3. Among qualified providers.~~

10
11
12
13
14 **8.500.101 PRIOR AUTHORIZATION REQUESTS**

15 ~~Prior Authorization Requests (PAR) shall be in accordance with Section 8.519.14~~

16 ~~8.500.101.A Prior authorization requests (PAR) shall be in accordance with 10 C.C.R. 2505-10,~~
17 ~~Section 8.058.~~

18 ~~8.500.101.B A prior authorization request shall be submitted to the Operating Agency through the~~
19 ~~Department's designated information management system.~~

20 ~~8.500.101.C The case management agency shall comply with the policies and procedures for the PAR~~
21 ~~review process as set forth by the Department or the Operating Agency.~~

22 ~~8.500.101.D The case management agency shall submit the PAR in compliance with all applicable~~
23 ~~regulations and ensure requested services are:~~

24 ~~1. Consistent with the client's documented medical condition and functional capacity as~~
25 ~~indicated in the functional needs assessment,~~

26 ~~2. Adequate in amount, frequency and duration in order to meet the client's needs and~~
27 ~~within the limitations set forth in the current federally approved waiver, and~~

28 ~~3. Not duplicative of another authorized service, including services provided through:~~

1 a. ~~Medicaid State plan benefits,~~

2 b. ~~Third party resources,~~

3 c. ~~Natural supports,~~

4 d. ~~Charitable organizations, or~~

5 e. ~~Other public assistance programs.~~

6 4. ~~Services delivered without prior authorization shall not be reimbursed except for provision~~
7 ~~of services during an emergency pursuant to 10 CCR 2505-10 § 8.058.4.~~

11 **8.500.106 APPEAL RIGHTS**

12 Case Management Agencies shall meet the requirements set forth at Section 8.519.22

13 8.500.106.A The CCB shall provide the long term care notice of action form to applicants and ~~e~~clients
14 within ~~e~~leven ~~ten~~ (11) business days regarding their appeal rights in accordance with ~~40 CCR~~
15 ~~2505-10~~, Section 8.057 *et seq.* ~~w~~When:

16 1. The Client or applicant is determined to not have a developmental disability,

17 2. The Client or applicant is found eligible or ineligible for ~~LTC services~~LTSS,

18 3. The Client or applicant is determined eligible or ineligible for placement on a ~~wait~~waiting
19 list for ~~Medicaid LTC services~~LTSS,

20 4. An adverse action occurs that affects the Client's or applicant's waiver enrollment
21 status: or,

22 5. ~~An adverse action occurs that affects the provision of the client's waiver services, or~~

23 6. ~~The applicant or client requests such information.~~

24 8.500.106.B The CCB shall ~~appear and defend~~ represent its/their decision at the Office of
25 Aadministrative Ccourts as described in ~~40 CCR 2505-10~~, Section 8.057 *et seq.* when the CCB
26 has made a denial or other adverse action against a Client or applicant.

27 8.500.106.C The CCB shall notify the Case Management Agency in the client's service plan within one
28 (1) business day of the adverse action.

1

2 ~~8.500.106.C — The CCB shall notify all providers in the client's service plan within ten (10) business day~~
 3 ~~of the adverse action.~~

4 8.500.106.D The CCB shall notify the County Department of Human/Social Services income
 5 maintenance technician within ten (10) business day of an adverse action that affects Medicaid
 6 financial eligibility.

7 8.500.106.E The applicant or Client shall be informed of an adverse action if the Client is
 8 determined ineligible ~~as set forth in client eligibility~~ and the following:

9 ~~1. The client cannot be served safely within the cost containment as identified in the HCBS-~~
 10 ~~SLS Waiver,~~

11 ~~2. The client is placed in an institution for treatment with a duration that continues for more~~
 12 ~~than thirty (30) days,~~

13 ~~13.~~ The Client or applicant is detained or resides in a correctional facility, or

14 ~~24.~~ The eClient or applicant enters an institute for mental health with a duration that
 15 continues for more than thirty (30) days.

16 ~~8.500.106.F — The client shall be notified, pursuant to 10 CCR 2505-10, Section 8.057.2.A, when the~~
 17 ~~following results in an adverse action that does not relate to HCBS-SLS waiver client eligibility~~
 18 ~~requirements:~~

19 ~~1. A waiver service is reduced, terminated or denied because it is not a demonstrated need~~
 20 ~~in the functional needs assessment,~~

21 ~~2. A waiver service is terminated or denied because is not available through the current~~
 22 ~~federally approved waiver,~~

23 ~~3. A service plan or waiver service exceeds the limits as set forth in the in the federally~~
 24 ~~approved waiver,~~

25 ~~4. The client or client representative has failed to schedule an appointment for the functional~~
 26 ~~needs assessment, service plan, or six (6) month visit with the case manager two (2)~~
 27 ~~times in a thirty (30) day consecutive period,~~

28 ~~5. The client or client representative has failed to keep three (3) scheduled assessment~~
 29 ~~appointments within a thirty (30) consecutive day period,~~

30 ~~6. The client enrolls in a different long term care program, or~~

31 ~~7. The client moves out of state. The client shall be discontinued effective upon the day~~
 32 ~~after the date of the move.~~

1 a. ~~A client who leaves the state on a temporary basis, with intent to return to~~
2 ~~Colorado, according to income maintenance staff manual 9 CCR 2503-1, Section~~
3 ~~3.140.2,, shall not be terminated unless one or more of the other client eligibility~~
4 ~~criteria are no longer met.~~

5 8. ~~The client voluntarily withdraws from the waiver. The client shall be terminated from the~~
6 ~~waiver effective upon the day after the date on which the client's request is documented.~~

7 ~~8.500.106.G The CCB shall not send the LTC notice of action form when the basis for termination is~~
8 ~~death of the client, but shall document the event in the client record. The date of action shall be~~
9 ~~the day after the date of death.~~

14 8.503 CHILDREN'S EXTENSIVE SUPPORT WAIVER PROGRAM (HCBS-CES)

15 8.503 DEFINITIONS

16 ACTIVITIES OF DAILY LIVING (ADL) means basic self-care activities including bathing, bowel and
17 bladder control, dressing, eating, independent ambulation, transferring, and needing supervision to
18 support behavior, medical needs and memory cognition.

19 ADVERSE ACTION means a denial, reduction, termination or suspension from the HCBS-CES waiver or
20 a HCBS waiver service.

21 APPLICANT means an individual who is seeking a long-term services and supports Long Term Care
22 eligibility determination and who has not affirmatively declined to apply for Medicaid or participate in an
23 assessment.

24 Authorized Representative means an individual designated by a Client, or by the parent or guardian of the
25 Client receiving services, if appropriate, to assist the Client receiving service in acquiring or utilizing
26 services and supports, this does not include the duties associated with an Authorized Representative for
27 Consumer Directed Attendant Support Services (CDASS) as defined at 8.510.1.

28 AUTHORIZED REPRESENTATIVE (AR) means an individual designated by the client, parent or legal
29 guardian of a minor, if appropriate, who has the judgment and ability to direct CDASS on the client's
30 behalf and meets the qualifications as defined at 10 CCR 2505-10 Sections 8.510.6 and 8.510.7

31 CASE MANAGEMENT AGENCY (CMA) means a public or private not-for-profit or for-profit agency that
32 meets all applicable state and federal requirements and is certified by the Department to provide case
33 management services for Home and Community Based Services waivers pursuant to Sections 25.5-10-

1 ~~209.5 and CRS 25.5-6-106~~, C.R.S. and pursuant to a provider participation agreement with the ~~state~~
2 ~~Department~~.

3 ~~CLIENT means an individual who meets long-term services and supports eligibility requirements and has~~
4 ~~been approved for and agreed to receive Home and Community Based Services (HCBS).~~

5 ~~CLIENT means an individual who has met Long Term client representative may be (A) a legal~~
6 ~~representative including but not limited to a court appointed guardian, a parent of a minor child, or a~~
7 ~~spouse, or (B) an individual, family member or friend selected by the parent or guardian of the client to~~
8 ~~speak for or act on the clients' behalf.~~

9 ~~CLIENT REPRESENTATIVE means a person who is designated by the Client to act on the Client's~~
10 ~~benefit. A Client representative may be: (A) a legal representative including, but not limited to a court-~~
11 ~~appointed guardian, a parent of a minor child, or a spouse; or (B) an individual, family member or friend~~
12 ~~selected by the Client ~~client~~ to speak for or act on the Client's behalf.~~

13 ~~Community Centered Board means a private corporation, for-profit or not-for-profit that is designated~~
14 ~~pursuant to Section 25.5-10-209, C.R.S., responsible for, but not limited to conducting Developmental~~
15 ~~Disability determinations, waiting list management Level of Care Evaluations for Home and Community~~
16 ~~Based Service waivers specific to individuals with intellectual and developmental disabilities, and~~
17 ~~management of State Funded programs for individuals with intellectual and developmental disabilities.~~

18 ~~COMMUNITY CENTERED BOARD (CCB) means a private corporation, for profit or not for profit, which,~~
19 ~~when designated pursuant to Section 27-10.5-101, C.R.S., provides case management services to clients~~
20 ~~with developmental disabilities, is authorized to determine eligibility of such clients within a specified~~
21 ~~geographical area, serves as the single point of entry for clients to receive services and supports under~~
22 ~~Section 27-10.5-101, C.R.S. et seq., and provides authorized services and supports to such clients either~~
23 ~~directly or by purchasing such services and supports from service agencies.~~

24 COST CONTAINMENT means limiting the cost of providing care in the community to less than or equal to
25 the cost of providing care in an institutional setting based on the average aggregate amount. The cost of
26 providing care in the community shall include the cost of providing Home and Community Based
27 Services, and Medicaid State Plan benefits including long term home health services and targeted case
28 management ~~services~~.

29 COST EFFECTIVENESS means the most economical and reliable means to meet an identified need of
30 the ~~e~~Client.

31 CONSUMER DIRECTED ATTENDANT SUPPORT SERVICES (CDASS) means the service delivery
32 option for services that assist an individual in accomplishing activities of daily living when included as a
33 waiver benefit that may include health maintenance, personal care and homemaker activities.

34 DEPARTMENT means the Colorado Department of Health Care Policy and Financing, the single state
35 Medicaid agency.

36 ~~DEVELOPMENTAL DELAY means as defined in Ssection 8.600.4.~~

1 DEVELOPMENTAL DISABILITY means as defined in Section 8.600.4.DEVELOPMENTAL DELAY
 2 means a child who is:

3 Birth up to age five (5) and has a developmental delay defined as the existence of at least one of
 4 the following measurements:

5 Equivalence of twenty-five percent (25%) or greater delay in one (1) or more of the five
 6 domains of development when compared with chronological age,

7 Equivalence of 1.5 standard deviations or more below the mean in one (1) or more of the
 8 five domains of development,

9 Has an established condition defined as a diagnosed physical or mental condition that, as
 10 determined by a qualified health professional utilizing appropriate diagnostic methods
 11 and procedures, has a high probability of resulting in significant delays in development, or

12 Birth up to age three (3) who lives with a parent who has been determined to have a
 13 developmental disability by a Community Centered Board.

14 DEVELOPMENTAL DISABILITY means a disability that is manifested before the person reaches twenty
 15 two (22) years of age, which constitutes a substantial disability to the affected individual, and is
 16 attributable to an intellectual and developmental disability or related conditions which include Prader-Willi
 17 syndrome, cerebral palsy, epilepsy, autism or other neurological conditions when such conditions result in
 18 impairment of general intellectual functioning or adaptive behavior similar to that of a person with an
 19 intellectual and developmental disability. Unless otherwise specifically stated, the federal definition of
 20 "developmental disability" found in found in 42 U.S.C. § 15002, et seq., shall not apply.

21 ~~DEVELOPMENTAL DISABILITY~~ means a disability that is manifested before the person reaches twenty-
 22 two (22) years of age, which constitutes a substantial disability to the affected individual, and is
 23 attributable to mental retardation or related conditions which include Cerebral palsy, Epilepsy, Autism or
 24 other neurological conditions when such condition result in impairment of general intellectual functioning
 25 or adaptive behavior similar to that of a person with mental retardation, unless otherwise specifically
 26 stated, the federal definition "Developmental Disability" found in 42 U.S.C. Section 6000 et seq.

27 "Impairment of general intellectual functioning" means that the person has been determined to
 28 have an intellectual quotient equivalent which is two or more standard deviations below the mean
 29 (seventy (70) or less assuming a scale with a mean of 100 and a standard deviation of fifteen
 30 (15)), as measured by an instrument which is standardized, appropriate to the nature of the
 31 person's disability, and administered by a qualified professional. Ithe standard error of
 32 measurement of the instrument should be considered when determining the intellectual quotient
 33 equivalent. When an individual's general intellectual functioning cannot be measured by a
 34 standardized instrument, then the assessment of a qualified professional shall be used.

35 "Adaptive behavior similar to that of a person with ~~with intellectual and developmental~~
 36 disabilitymental retardation" means that the person has overall adaptive behavior which is two or
 37 more standard deviations below the mean in two or more skill areas (communication, self-care,
 38 home living, social skills, community use, self-direction, health and safety, functional academics,
 39 leisure, and work), as measured by an instrument which is standardized, appropriate to the

1 person's living environment, and administered and clinically determined by a qualified
2 professional. ~~These adaptive behavior limitations are a direct result of, or are significantly~~
3 ~~influenced by, the person's substantial intellectual deficits and may not be attributable to only a~~
4 ~~physical or sensory impairment or mental illness.~~

5 "Substantial intellectual deficits" means an intellectual quotient that is between seventy-one (71)
6 and seventy five (75) assuming a scale with a mean of one hundred (100) and a standard
7 deviation of fifteen (15), as measured by an instrument which is standardized, appropriate to the
8 nature of the person's disability, and administered by a qualified professional. the standard error
9 of measurement of the instrument should be considered when determining the intellectual
10 quotient equivalent.

11 ~~DIVISION FOR DEVELOPMENTAL DISABILITIES (DDD) means the Operating Agency for Home and~~
12 ~~Community Based Services- Children's Extensive Support (HCBS-CES) to persons with developmental~~
13 ~~delays or disabilities within the Colorado Department of Human Services.~~

14 **EARLY AND PERIODIC SCREENING DIAGNOSIS AND TREATMENT (EPSDT) means as defined in**
15 **8.280.1. the child health component of the Medicaid State Plan for a Medicaid eligible client up to 21**
16 **years of age.**

17 FAMILY means a relationship as it pertains to the eClient and is defined as:

18 A mother, father, brother, sister ~~or any combination,~~

19 Extended blood relatives such as grandparent, aunt, uncle, cousin,

20 An adoptive parent,

21 One or more individuals to whom legal custody of a person with a developmental disability has
22 been given by a court,

23 A spouse or,

24 The eClient's child.

25 FISCAL MANAGEMENT SERVICE (FMS) ~~ORGANIZATION~~ means the entity contracted with the
26 Department ~~as the employer of record for attendants, to provide personnel management services, fiscal~~
27 ~~management services and skills training to a parent or guardian or authorized representative of a client~~
28 ~~receiving CDASS, to complete employment related functions for CDASS attendants and track and report~~
29 ~~on individual Client allocations for CDASS.~~

30 FUNCTIONAL ELIGIBILITY means that the applicant meets the criteria for ~~Long Term Care services~~long-
31 term services and supports as determined by the Department

32 FUNCTIONAL NEEDS ASSESSMENT means a comprehensive face-to-face evaluation using the
33 Uniform Long Term Care instrument and medical verification on the Professional Medical Information
34 Page to determine if the applicant or eClient meets the institutional Level of Care (LOC).

1 GUARDIAN means a person who has qualified as a guardian of a minor or incapacitated person pursuant
 2 to testamentary or court appointment but excludes a Guardian Ad Litem (C.R.S. 15-10-201), an individual
 3 at least twenty-one years of age, resident or non-resident, who has qualified as a guardian of a minor or
 4 incapacitated person pursuant to appointment by a court. Guardianship may include a limited,
 5 emergency, and temporary substitute court appointed guardian but not a guardian ad litem.

6 Guardian ad litem" or "GAL" means a person appointed by a court to act in the best interests of a child
 7 involved in a proceeding under title 19, C.R.S., or the "School Attendance Law of 1963", set forth in article
 8 33 of title 22, C.R.S., and who, if appointed to represent a child in a dependency or neglect proceeding
 9 pursuant to article 3 of title 19, C.R.S., shall be an attorney-at-law licensed to practice in Colorado (C.R.S.
 10 13-91-103)

11
 12 HOME AND COMMUNITY BASED SERVICES (HCBS) WAIVERS means services and supports
 13 authorized through a 1915 (c) waiver of the Social Security Act and provided in community settings to a
 14 Celient who requires a level of institutional care that would otherwise be provided in a hospital, nursing
 15 facility or intermediate cCare Facility for individuals with intellectual disabilities (ICF-IID), the Mentally
 16 Retarded (ICF/MR).

17 INSTITUTION means a hospital, nursing facility, facility or ICF-IID/~~MR~~ for which the Department makes
 18 Medicaid payments under the state plan.

19 INTERMEDIATE CARE FACILITY FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES (ICF-
 20 IID)THE MENTALLY RETARDED (ICF/MR) means a publicly or privately operated facility that provides
 21 health and habilitation services to a Celient with developmental disabilities or related conditions.

22 LEGALLY RESPONSIBLE PERSON means the parent of a minor child, or the Celient's
 23 guardian~~lient~~thspouse~~e~~.

24 LEVEL OF CARE (LOC) means the specified minimum amount of assistance a Celient must require in
 25 order to receive services in an institutional setting under the Medicaid State Plan.

26 LICENSED MEDICAL PROFESSIONAL means a person who has completed a 2-year or longer program
 27 leading to an academic degree or certificate in a medically related profession. This is limited to those who
 28 possess the following medical licenses: ; physician, physician assistant and nurse governed by the
 29 Colorado Medical License Act and the Colorado Nurse Practice Act.

30 LONG-TERM SERVICES AND SUPPORTS (LTSS) means the services and supports used by individuals
 31 of all ages with functional limitations and chronic illnesses who need assistance to perform routine daily
 32 activities, such as bathing, dressing, preparing meals, and administering medications.

33 LONG TERM CARE (LTC) SERVICES means services provided in nursing facilities or, Intermediate Care
 34 Facilities for the Mentally Retarded (ICF/MR), or Home and Community Based Services (HCBS), Long
 35 Term Home Health Services, the program of All-Inclusive Care for the Elderly, Swing Bed and Hospital
 36 Back Up program (HBU).

1 MEDICAID ELIGIBLE means the applicant or eClient meets the criteria for Medicaid benefits based on
2 the applicant's financial determination and disability determination when applicable.

3 MEDICAID STATE PLAN means the federally approved document that specifies the eligibility groups that
4 a state serves through its Medicaid program, the benefits that the state covers, and how the state
5 addresses additional federal Medicaid statutory requirements concerning the operation of its Medicaid
6 program.

7 MEDICATION ADMINISTRATION means assisting a eClient in the ingestion, application or inhalation of
8 medication, including prescription and non-prescription drugs, according to the directions of the attending
9 physician or other licensed health practitioner and making a written record thereof.

10 NATURAL SUPPORTS means non paid informal relationships that provide assistance and occur in the
11 eClient's everyday life such as, but not limited to, community supports and relationships with family
12 members, friends, co-workers, neighbors and acquaintances.

13 ~~OPERATING AGENCY means the Department of Human Services, Division for Developmental~~
14 ~~Disabilities, which manages the operations of the Home and Community Based Services for Persons with~~
15 ~~Developmental Disabilities (HCBS-DD), HCBS-Supported Living Services (HCBS-SLS) and HCBS-~~
16 ~~Children's Extensive Supports (HCBS-CES) waivers under the oversight of the Department of Health~~
17 ~~Care Policy and Financing.~~

18 ORGANIZED HEALTH CARE DELIVERY SYSTEM (OHCD) means a public or privately managed
19 service organization that provides, at minimum, targeted case management and contracts with other
20 qualified providers to furnish services authorized in the HCBS-DD, HCBS-SLS and HCBS-CES waivers.

21 PRIOR AUTHORIZATION means approval for an item or service that is obtained in advance either from
22 the Department, ~~the Operating Agency~~, a state fiscal agent or the Case Management Agency.

23 PROFESSIONAL MEDICAL INFORMATION PAGE (PMIP) means the medical information form signed
24 by a licensed medical professional used to verify the eClient needs institutional Level of Care.

25 PROGRAM APPROVED SERVICE AGENCY means a developmental disabilities service agency or
26 typical community service agency as defined in 102 CCR 503-42505-10, Section 16.200-8.600.4 et seq.,
27 that has received program approval to provide HCBS-CES waiver services.

28 RELATIVE means a person related to the eClient by virtue of blood, marriage, adoption or common law
29 marriage.

30 RETROSPECTIVE REVIEW means the Department or the Department's contractor or the Operating
31 Agency's review after services and supports are provided to ensure the eClient received services
32 according to the service plan ~~and standards of economy, efficiency and quality of service and that the~~
33 ~~Case Management Agency complied with the requirements set forth in statute, waiver and regulation.~~

34 SERVICE PLAN means the written document that specifies identified and needed services, regardless of
35 funding source, to assist a eClient to remain safely in the community and developed in accordance with
36 the Department's ~~and the Operating Agency's~~ rules set forth in 10 CCR 2505-10, Section 8.400.

1 SUPPORT is any task performed for the eClient where learning is secondary or incidental to the task itself
2 or an adaptation is provided.

3 Targeted Case Management (TCM) means case management services provided to individuals enrolled in
4 the HCBS-CES, HCBS- Children Habilitation Residential Program (CHRP), HCBS-DD, and HCBS-SLS
5 waivers in accordance with Section 8.760 et seq. Targeted case management includes facilitating
6 enrollment, locating, coordinating and monitoring needed HCBS waiver services and coordinating with
7 other non-waiver resources, including, but not limited to medical, social, educational and other resources
8 to ensure non-duplication of waiver services and the monitoring of effective and efficient provision of
9 waiver services across multiple funding sources. Targeted case management includes the following
10 activities: comprehensive assessment and periodic reassessment, development and periodic revision of a
11 Service Plan, referral and related activities, and monitoring.

12 ~~TARGETED CASE MANAGEMENT SERVICES (TCM) means a Medicaid State Plan benefit for a target~~
13 ~~population which includes: facilitating enrollment, locating, coordinating and monitoring needed HCBS~~
14 ~~waiver services and coordinating with other non-waiver resources including but not limited to medical,~~
15 ~~social, educational and other resources to ensure non-duplication of HCBS waiver services and the~~
16 ~~monitoring of the effective and efficient provision of HCBS waiver services across multiple funding~~
17 ~~sources.~~

18 THIRD PARTY RESOURCES means services and supports that a Client may receive from a variety of
19 programs and funding sources beyond natural supports or Medicaid. They may include, but are not
20 limited to community resources, services provided through private insurance, non-profit services and
21 other government programs.

22 UTILIZATION REVIEW CONTRACTOR (URC) means the agency contracted with the Department of
23 Health Care Policy and Financing to review the HCBS-CES waiver applications for determination of
24 eligibility based on the additional targeting criteria.

25 WAIVER SERVICE means optional services defined in the current federally approved waivers s-documents
26 and do not include Medicaid State Plan benefits.

31 **8.503.50 SERVICE PLAN**

32 The Case Management agency shall complete a service support plan for each Client
33 enrolled in the HCBS-CES waiver in accordance with Section 8.519.11.B.2

34 ~~8.503.50.A — The case management agency shall complete a service plan for each client enrolled in~~
35 ~~the HCBS-CES waiver in accordance with 10 CCR 2505-10 Section 8.400.~~

- 1 ~~1. The service plan shall:~~
- 2 ~~a. Address the client's assessed needs and personal goals, including health and~~
- 3 ~~safety risk factors either by HCBS-CES waiver services or any other means,~~
- 4 ~~b. Be in accordance with the Department's and the Operating Agency's rules,~~
- 5 ~~policies and procedures,~~
- 6 ~~c. Be entered and verified in the Department prescribed system within ten (10)~~
- 7 ~~business days,~~
- 8 ~~d. Describe the types of services to be provided, the amount, frequency and~~
- 9 ~~duration of each service and the type of provider for each service,~~
- 10 ~~e. Include a statement of agreement, and.~~
- 11 ~~f. Be updated or revised at least annually or when warranted by changes in the~~
- 12 ~~HCBS-CES waiver client's needs,~~
- 13 ~~2. The Service Plan shall document that the client has been offered a choice:~~
- 14 ~~a. Between HCBS-CES waiver services and institutional care,~~
- 15 ~~b. Among HCBS-CES waiver services, and~~
- 16 ~~c. Among qualified providers.~~

21 **8.503.120 PRIOR AUTHORIZATION REQUESTS**

22 Prior Authorization Requests (PAR) shall be in accordance with Section 8.519.14

23 ~~8.503.120.A Prior Authorization Requests (PAR) shall be in accordance with 10 CCR 2505-10,~~

24 ~~Section 8.058.~~

- 25 ~~1. A Prior Authorization Request shall be submitted to the Operating Agency through the~~
- 26 ~~Department's designated information management system.~~
- 27 ~~2. The case management agency shall comply with the policies and procedures for the PAR~~
- 28 ~~review process as set forth by the Department and the Operating Agency.~~

- 1 ~~3. The case management agency shall submit the PAR in compliance with all applicable~~
2 ~~regulations and ensure requested services are:~~
- 3 ~~a. Consistent with the client's documented medical condition and functional~~
4 ~~capacity as indicated in the Functional Needs Assessment,~~
- 5 ~~b. Adequate in amount, frequency and duration in order to meet the client's needs~~
6 ~~and within the limitations set forth in the current federally approved HCBS-CES~~
7 ~~waiver, and~~
- 8 ~~c. Not duplicative of another authorized service, including services provided~~
9 ~~through:~~
- 10 ~~i.) Medicaid State Plan benefits,~~
- 11 ~~ii.) Third party resources,~~
- 12 ~~iii.) Natural supports,~~
- 13 ~~iv.) Charitable organizations, or~~
- 14 ~~v.) Other public assistance programs.~~
- 15 ~~4. Services delivered without prior authorization shall not be reimbursed except for provision~~
16 ~~of services during an emergency pursuant to 10 CCR 2505-10, Section 8.058.4.~~

17
18
19
20
21 **8.503.160 APPEAL RIGHTS**

22 Case Management Agencies shall meet the requirements set forth at Section 8.519.22

23 8.503.160.A The CCB shall provide the long-term care~~Long Term Care notice~~care notice of action
24 form ~~(LTC-803)~~ to the applicant and Client's parent or legal guardian within ~~ten~~eleven (101)
25 business days regarding the Client's appeal rights in accordance with ~~10 CCR 2505-10,~~ Section
26 8.057 *et seq.* when:

- 27 1. The Client or applicant is determined not to have a developmental delay or
28 developmental disability,
- 29 2. The eClient or applicant is determined eligible or ineligible for Medicaid -LTSSLTC
30 services,

1 3. The ~~eClient or a~~ Applicant is determined eligible or ineligible for placement on a waiting
 2 list for Medicaid ~~LTC services~~ LTSS,

3 4. An Adverse Action occurs that affects the ~~C~~ client's or applicant's HCBS-CES waiver
 4 enrollment status through termination or suspension,

5 ~~5. An Adverse Action occurs that affects the provision of HCBS-CES waiver services or,~~

6 ~~56. The Applicant or client requests such information.~~

7 8.503.160.B The CCB shall appear and defend its ~~represent their~~ decision at the Office of
 8 Administrative Courts as described in ~~10 CCR 2505-10~~, Section 8.057 *et seq.* when the CCB has
 9 made a denial or adverse action against a C client or applicant. 8.500.16.C

10 8.503.160.C The CCB shall notify the Case Management Agency in the client's service plan within one
 11 (1) business day of the adverse action.

12 ~~8.503.160.C The CCB shall notify all providers in the client's service plan within one (1) working day of~~
 13 ~~the adverse action.~~

14 8.503.160.D The CCB shall notify the County Department of Human Services income maintenance
 15 technician within one (1) business day of an Adverse Action that affects Medicaid financial
 16 eligibility.

17 8.503.160.E The CCB shall inform the applicant's or eClient's parent or legal guardian ~~shall be~~
 18 ~~informed~~ of an adverse action if the applicant or e client is determined ~~ineligible~~ ineligible as set
 19 forth in client eligibility and the following:

20 1. The e client or applicant, parent or legal guardian fails to submit the Medicaid financial
 21 application for LTC to the financial eligibility site within thirty (30) days of LTC referral,

22 2. A C client, parent or legal guardian fails to submit financial information for re-
 23 determination for LTC to the financial eligibility site within the required re-determination
 24 timeframe,

25 3. The County Income Maintenance Technician has determined the C client no longer meets
 26 financial eligibility criteria as set forth in ~~10 CCR 2505-10~~, Section 8.100,

27 4. The C client cannot be served safely within the cost containment as identified in the
 28 HCBS-CES waiver,

29 5. The e client requires twenty-~~four~~ (24) hour supports provided through Medicaid state
 30 plan,

31 6. The resulting total cost of services provided to the e client, including Targeted Case
 32 Management, home health and HCBS-CES waiver services, exceeds the cost
 33 containment as identified in the HCBS-CES waiver,

- 1 7. The Client enters an institution for treatment with duration that continues for more than
2 thirty (30) days,
- 3 8. The eClient is detained or resides in a correctional facility, and
- 4 9. The Client enters an institute for mental illness with a duration that continues for more
5 than thirty (30) days.

6 ~~8.503.160.F — The client and parent or legal guardian shall be notified, pursuant to 10 CCR 2505-10,~~
7 ~~Section 8.057, when the following results in an adverse action that does not relate to HCBS-CES~~
8 ~~waiver client eligibility requirements:~~

- 9 1. ~~A HCBS-CES waiver service is reduced, terminated or denied because it is not a~~
10 ~~demonstrated need in the Functional Needs Assessment or because it is not available~~
11 ~~through the current federally approved HCBS-CES waiver,~~
- 12 2. ~~A service plan for HCBS-CES waiver services exceed the limits as set forth in the in the~~
13 ~~federally approved HCBS-CES waiver,~~
- 14 3. ~~The parent or legal guardian has failed to schedule an appointment for the Functional~~
15 ~~Needs Assessment of the client, service plan, or 6 month visit two (2) times in a thirty~~
16 ~~(30)-day consecutive period,~~
- 17 4. ~~The parent or legal guardian has failed to keep three (3) scheduled assessment~~
18 ~~appointments within a thirty (30) consecutive day period,~~
- 19 5. ~~The parent or legal guardian failed to complete the HCBS-CES waiver application within~~
20 ~~fifteen (15) calendar days of the authorized enrollment date as determined by the~~
21 ~~Operating Agency,~~
- 22 6. ~~The parent or legal guardian fails to complete the service plan within thirty (30) calendar~~
23 ~~days of the authorized enrollment date as determined by the Operating Agency,~~
- 24 7. ~~The parent or legal guardian refuses to use the home care allowance to pay for services,~~
25 ~~or uses the home care allowance payment for services not identified in the service~~
26 ~~agreement,~~
- 27 8. ~~The parent or legal guardian refuses to sign the statement of agreement or other forms~~
28 ~~as required to receive services,~~
- 29 9. ~~The client enrolls in a different long term care program,~~
- 30 10. ~~The client moves out of state. The client shall be discontinued effective upon the day~~
31 ~~after the date of the move.~~
- 32 a. ~~A client who leaves the state on a temporary basis, with intent to return to~~
33 ~~Colorado, according to income maintenance staff manual 9 CCR 2503-1, Section~~

1 3.140.2, residence, shall not be discontinued unless one or more of the other
2 client-eligibility criteria are no longer met.

3 11. ~~The parent or legal guardian voluntarily withdraws the client from HCBS-CES waiver. The~~
4 ~~client shall be discontinued from the program effective upon the day after the date on~~
5 ~~which the parent or legal guardian request is documented.~~

6 12. ~~The CCB shall not send the LTC notice of action form when the basis for discontinuation~~
7 ~~is death of the client, but shall document the event in the client record and the date of~~
8 ~~action shall be the day after the date of death.~~

9
10 **8.519 Case Management**

11 **8.519.1 Definitions**

12 Adverse Action means a denial, reduction, termination, or suspension from a long-term service and
13 support program or service.

14 Agency Applicant means an entity seeking approval to be a ~~as the~~ provider of case management
15 services for Home and Community Based Services.

16 Algorithm means a formula that establishes a set of rules that precisely defines a sequence of operations.
17 An algorithm is used to assign Clients into one of six support levels in the Home and Community Based
18 Services for Persons with Developmental Disabilities (HCBS-DD) and Home and Community Based
19 Services- Supported Living Services (HCBS-SLS) waivers.

20 Authorized Representative means an individual designated by a ~~eClient the person receiving services, or~~
21 by the parent or guardian of the ~~eClient person receiving services,~~ if appropriate, to assist the Client
22 ~~receiving service~~ in acquiring or utilizing services and supports, this does not include the duties
23 associated with an Authorized Representative for Consumer Directed Attendant Support Services
24 (CDASS) as defined in 8.510.1.

25 Business Day means any day in which the state is open and conducting business, but shall not include
26 Saturday, Sunday, or any day in which the state observes on of the holidays listed in ~~s~~Section 24-11-
27 101(1) C.R.S.

28 Case Manager means a person who provides case management services and meets all regulatory
29 requirements for case managers.

30 Case Management means the assessment of an individual's ~~needs~~ receiving long-term services and
31 supports' ~~needs,~~ the development and implementation of a support plan for such individual, referral and
32 related activities, the coordination and monitoring of long-term service delivery, the evaluation of services
33 effectiveness, and the periodic reassessment of such individual's needs.

34 Case Management Agency (CMA) means a public or private not-for-profit or for-profit agency that meets
35 all applicable state and federal requirements and is certified by the Department to provide case

- 1 management services for specific Home and Community Based Services waivers pursuant to sSections
2 25.5-10-209.5, C.R.S. and CRS 25.5.6.106, C.R.S., and pursuant to a provider participation agreement
3 with the state department.
- 4 Certification means the process by which an agency is approved by the Department to provide case
5 management which includes the submission and approval of a Medicaid Provider Agreement along with
6 submission of verification that the agency meets the qualifications as set forth in Section 8.519.
- 7 Client means an individual who meets long-term services and supports eligibility requirements and has
8 been approved for and agreed to for the agreement to receive Home and Community Based Services
9 (HCBS).
- 10 Community Centered Board” means a private corporation, for-profit or not-for-profit that is designated
11 pursuant to Section 25.5-10-209, C.R.S., responsible for, but not limited to conducting Developmental
12 Disability determinations, waiting list management Level of Care Evaluations for Home and Community
13 Based Service waivers specific to individuals with intellectual and developmental disabilities, and
14 management of State Funded programs for individuals with intellectual and developmental disabilities.
- 15 sComprehensive Assessment means and initial assessment or periodic reassessment of individual
16 needs to determine the need for any medical, educational, social or other services and completed
17 annually or when the Client experiences significant change in need or in level of support.
- 18 Conflict-Free Case Management means, pursuant to 42 CFRRE § 441.301(c)(1)(vi), case management
19 services provided to a Client enrolled in a Home and Community Based Services waiver that are provided
20 by a Case Management Agency that is not the same agency that provides services and supports to that
21 person.
- 22 Corrective Action pPlan means a written plan by the CMA, which includes atthe detailed description of
23 actions to be taken to correct non-compliance with waiver requirements, regulations, and direction from
24 the Department, and which stipulatesets forth the date by which each action shall be completed and the
25 persons responsible for implementing the action.
- 26 Critical Incident means incidents or allegations involving Clients receiving services to include
27 mistreatment, abuse, neglect, exploitation, illness/injury, death, damage to consumer’s property/theft,
28 medication management issues, criminal activity, unsafe housing/displacement, and missing persons.
- 29 Department means the Colorado Department of Health Care Policy and Financing, the Single State
30 Medicaid Agency.
- 31 Developmental Delay means as defined in Section 8.600.4.
- 32 Developmental Disability means as defined in Section 8.600.4.
- 33 Executive Director means the Executive Director of the Colorado Department of Health Care Policy and
34 Financing unless otherwise indicated.
- 35 Financial Eligibility means the eligibility criteria for a publicly funded program, based on the individual’s
36 financial circumstances, including income and resources, if applicable.

1 Guardian means a person who has qualified as a guardian of a minor or incapacitated person pursuant to
2 testamentary or court appointment but excludes ~~one who is merely~~ a Guardian Ad Litem (C.R.S. 15-10-
3 201).

4 Guardian ad litem" or "GAL" means a person appointed by a court to act in the best interests of a child
5 involved in a proceeding under title 19, C.R.S., or the "School Attendance Law of 1963", set forth in article
6 33 of title 22, C.R.S., and who, if appointed to represent a child in a dependency or neglect proceeding
7 pursuant to article 3 of title 19, C.R.S., shall be an attorney-at-law licensed to practice in Colorado (C.R.S.
8 13-91-103)

9 Home and Community Based Services (HCBS) waivers means services and supports authorized through
10 a 1915(c) waiver of the Social Security Act and provided in community settings to a Client who requires
11 an institutional Level of Care that would otherwise be provided in a hHospital, nNursing fFacility, or
12 Intermediate CeCare FFacility for individuals with IIntellectual DeDisabilities (ICF-IID).

13 Incident means an injury to a person receiving services; lost or missing persons receiving services;
14 medical emergencies involving persons receiving services; hospitalizations of persons receiving services;
15 death of persons receiving services; errors in medication administration; incidents or reports of actions by
16 persons receiving services that are unusual and require review; allegations of abuse, mistreatment,
17 neglect, or exploitation; use of safety control procedures; use of emergency control procedures; and
18 stolen personal property belonging to a persons receiving services.

19 Information Management System (IMS) means an automated data management system approved by the
20 Department to enter case management information for each individual seeking or receiving long term
21 services as well as to compile and generate standardized or custom summary reports.

22 Interdisciplinary Team (IDT) means a group of people convened by a certified Case Management Agency
23 that includes the person receiving services, the parent or guardian of a minor, guardian or an authorized
24 representative, as appropriate, the person who coordinates the provision of services and supports, and
25 others as chosen by the person receiving services, who are assembled to work in a cooperative manner
26 to develop or review the support plan.

27 Legally Responsible Persons means the parent of a minor child, or the Client's spouse.

28 Level of Care Determination means determining eligibility of an individual for a Long-Term Services and
29 Supports (LTSS) program and determined by a Community Centered Board or Single Entry Point
30 Agency.

31 Level of Care Evaluation means a comprehensive evaluation with the individual seeking services and
32 others chosen by the individual to participate and an evaluation by the case manager utilizing the
33 Department prescribed tool, with supporting diagnostic information from the individual's medical provider,
34 and to determine the individual's level of functioning for admission or continued stay in certain Long-Term
35 Services and Supports (LTSS) programs.

36 Long-Term Services and Supports (LTSS) means the services and supports used by individuals of all
37 ages with functional limitations and chronic illnesses who need assistance to perform routine daily
38 activities such as bathing, dressing, preparing meals, and administering medications.

- 1 Medicaid Eligible means an applicant or Client meets the criteria for Medicaid benefits based on the
2 applicant's financial determination and disability determination when applicable.
- 3 ORGANIZED HEALTH CARE DELIVERY SYSTEM (OHCD) means a public or privately managed
4 service organization that provides, at minimum, targeted case management and contracts with other
5 qualified providers to furnish services authorized in the Home and Community Based Services-for
6 Persons with Developmental Disabilities (HCBS-DD), HCBS-Supported Living Services (HCBS-SLS) and
7 HCBS-Children's Extensive Supports (HCBS-CES) waivers.
- 8 Parent means the biological or adoptive parent.
- 9 Performance and Quality Review means a review conducted by the Department or its contractor at any
10 time but no less than the frequency as specified in the approved waiver application. To include a review
11 of required case management services performed by the agency to ensure quality and compliance with
12 all requirements. The agency shall provide all requested information and documents as requested by the
13 Department or by its contractor.
- 14 ~~termination~~ §-Prior Authorization Requests (PAR) means approval for an item or service that is obtained in
15 advance either from the Department, a state fiscal agent or the Case Management Agency.
- 16 Professional Medical Information Page (PMIP) means the medical information document signed by a
17 licensed medical professional used as a component of the Level of Care evaluation to determine the
18 Client's needs for LTSS program.
- 19 Provider for the purpose of this section means any person, group or entity approved to render services or
20 provide items to a Client enrolled in an HCBS waiver program.
- 21 Regional Center means a facility or program operated directly by the Department of Human Services
22 which provides services and supports to persons with intellectual and developmental disabilities.
- 23 Retrospective Review means the Department or the Department's contractor's review after services and
24 supports are provided to ensure the Client received services according to the support plan and that the
25 Case Management Agency complied with the requirements set forth in statute, waiver, and regulations.
- 26 Service Plan means the written document that specifies identified and needed services, to include
27 Medicaid and non-Medicaid services regardless of funding source, to assist a Client to remain safely in
28 the community and developed in accordance with the Department's rules.
- 29 ~~Support Planning means the process of working with the individuals receiving services and people~~
30 ~~chosen by the individual to identify goals, needed services, individual choices and preferences, and~~
31 ~~appropriate services providers based on the individuals seeking or receiving services' assessment and~~
32 ~~knowledge of the individual and of community resources. Support planning informs the individual seeking~~
33 ~~or receiving services of his or her rights and responsibilities.~~
- 34 Service Plan Authorization Limit (SPAL) means an annual upper payment limit of total funds available to
35 purchase services to meet the Client's ongoing needs. Purchase of services not subject to the SPAL are
36 set forth at §Section 8.500.102.B. A specific limit is assigned to each of the six support levels in the

1 HCBS-SLS waiver. The SPAL is determined by the Department based on the annual appropriation for the
 2 HCBS-SLS waiver, the number of Clients in each level, and projected utilization.

3 Supports Intensity Scale (SIS) means the standardized assessment tool that gathers information from a
 4 semi-structured interview of respondents who know the Client well. It is designed to identify and measure
 5 the practical support requirements of adults with intellectual and developmental disabilities.

6 Support Level means a numeric value determined using an algorithm that places Clients into groups with
 7 other Clients who have similar overall support needs.

8 Support Planning means the process of working with ~~an the individuals~~ receiving services and people
 9 chosen by the individual to identify goals, needed services, individual choices and preferences, and
 10 appropriate services providers based on the individual's ~~seeking or receiving services'~~ assessment and
 11 knowledge of the individual and ~~available of~~ community resources. Support planning ~~includes informings~~
 12 the individual seeking or receiving services of his or her rights and responsibilities.

13 Targeted Case Management (TCM) means case management services provided to individuals enrolled in
 14 the HCBS-CES, HCBS- Children Habilitation Residential Program (CHRP), HCBS-DD, and HCBS-SLS
 15 waivers in accordance with Section 8.760 *et seq.* Targeted case management includes facilitating
 16 enrollment, locating, coordinating and monitoring needed HCBS waiver services and coordinating with
 17 other non-waiver resources, including, but not limited to medical, social, educational and other resources
 18 to ensure non-duplication of waiver services and the monitoring of effective and efficient provision of
 19 waiver services across multiple funding sources. Targeted case management includes the following
 20 activities; comprehensive assessment and periodic reassessment, development and periodic revision of a
 21 Service Plan, referral and related activities, and monitoring.

22 Waiver Services means those optional Medicaid services defined in the current federally approved HCBS
 23 waiver document and do not include Medicaid state plan services.

24
 25 **8.519.2 In order to be approved as a Case Case Management Agency Qualifications, the agency**
 26 **shall meet all of the following qualifications:**

27 8.519.2.A. A CMA must meet the following qualifications:

- 28 1. Have a physical location in Colorado and provide all required case management
 29 activities for the areas in which the agency elects to serve.
- 30 2. Be a public or private not for profit or for profit agency that meets all applicable state and
 31 federal requirements and is certified by the ~~state d~~Department to provide case
 32 management services pursuant to Sections 25.5-10-209.5, C.R.S. and ~~§25.5-6-106,~~
 33 C.R.S. Case management agencies that are private not for profit must have certification
 34 from the state of Colorado or a letter from the Department of the Treasury, internal
 35 revenue service classifying the agency as a private not for profit agency.
- 36 3. Provide ~~Demonstrate~~ proof that the agency ~~has employed~~ staff ~~that~~ meets all case
 37 manager qualifications.

- 1 4. As an agency, have a minimum of two years of agency experience in assisting high-risk,
 2 low income individuals, to obtain medical, social, education and/or other services. Case
 3 ASE MManagementANAGEMENT Agencies who were previously affiliated with an
 4 agency providing HCBS case management prior to August 30, 2019 are exempt from this
 5 requirement.
- 6 5. Demonstrate the agency does not have any fiduciary relation with an agency who
 7 provides HCBS waiver services. Agencies providing HCBS case management prior to
 8 August 30, 2019 are exempt from this requirement.
- 9 56. Provide case management to Clients who select the agency as long as the Client reside
 10 in the county for which the agency has elected to provide case management services;
 11 case management agencies who are also a Single Entry Point Agency are exempt from
 12 this requirement.
- 13 76. Possess the administrative capacity to deliver case management services in accordance
 14 with state and federal requirements.
- 15 78. Have established community referral systems and demonstrate linkages and referral-the
 16 ability to make community referrals for services with other agencies.
- 17 89. Demonstrate ability to meet all state and federal requirements governing the participation
 18 of case management agencies in the state Medicaid program, including but not limited to
 19 the ability to meet state and federal requirements for documentation, billing and auditing.
- 20 910. Have one month reserve financial capacity to maintain operations. HCBS case
 21 management agencies providing case management services in Colorado prior to
 22 JanuaryAugust 3+0,2019 are exempt from this requirement.
- 23 101. Demonstrate that the agency has financial reserves for one month of expenditures to
 24 cover costs associated with the number of Clients expected through their catchment
 25 area, including reserves to cover salaries and costs for case managers, and Clients. All
 26 agencies are required to submit an audited financial statement to the Department for
 27 review annually. Agencies providing HCBS case management services in Colorado prior
 28 to December 31August 30, 20198 are exempt from this one-month financial-reserve
 29 requirement.
- 30 124. Possess and maintain adequate liability insurance (including automobile insurance,
 31 professional liability insurance and general liability insurance) to meet the Department's
 32 minimum requirements.
- 33 13. Shall not be an approved provider agency providing direct services to individuals who are
 34 enrolled in HCBS waivers. Agencies providing HCBS case management prior to August
 35 30, 2019 are exempt from this requirement.

36
 37 **8.519.3 Functions of all Case Management Agencies:**

1 **8.519.3.A Case Management Agencies must:**

- 2 1. Maintain sufficient documentation of case management activities performed and to
3 support claims.
- 4 **2. Not provide guardianship services for any Client for enrolled in an HCBS waiver.**
- 5 3. Maintain, or have access to, information about public and private state and local services,
6 supports and resources and shall make such information available to the Client and/or
7 persons inquiring upon their behalf.
- 8 4. Be separate from the delivery of services and supports for the same individual, unless
9 otherwise approved as an exception by the Centers for Medicare and Medicaid services
10 (CMS) in the approved waiver application. Agencies providing Case Management
11 Agencies providing HCBS case management services prior to August 30, 2019 shall
12 comply with the timelines set forth at Sections 25.5-10-211.5(32)(f)-(g), C.R.S. and
13 section 25.5-10-211.5(2)(g), C.R.S.
- 14 5. Assign one (1) primary person who ensures case management services are provided on
15 behalf of the Client across all programs, professionals within the agency. Reasonable
16 efforts shall be made by the case management agency to include the eClient's
17 preferences of the client in this assignment.
- 18 6. Ensure that services are available on Business Days, provide services in accordance
19 with state business days.
- 20 7. Maintain records for seven (7) years after the date a Client discharges from a waiver
21 program, including Case management agencies shall include all documents, records,
22 communications, notes and other materials related to services provided and maintained
23 by case management agencies that relate to any work performed.
- 24 8. Possess appropriate financial management capacity and systems to document and track
25 services and costs in accordance with state and federal requirements.gulation.
- 26 9. Maintain and update records of persons determined to be eligible for services and
27 supports and who are receiving case management services in accordance with reporting
28 requirements of the Department's data system,the Departments requirements.
- 29 10. Establish and maintain working relationships with community-based resources, supports,
30 and organizations, hospitals, service providers, and other organizations that assist in
31 meeting the Celients' needs of clients.
- 32 11. Have a system for recruiting, hiring, evaluating, and terminating employees, and maintain
33 Case management agencies employment policies and practices that shall comply with
34 all federal and state laws.
- 35 12. Maintain current written job descriptions for all positions.

- 1 13. Maintain a website that at with a minimum contains of contact information for the agency,
 2 the ability for electronic communication, hours of operation, available resources, program
 3 options, and services provided.
- 4 14. Ensure staff have access to statutes and regulations relevant to the provision of
 5 authorized services. †
- 6 15. Provide case management services for Clients without discrimination on the basis of
 7 race, religion, political affiliation, gender, national origin, age, sexual orientation, gender
 8 expression or disability.
- 9 16. Provide information and reports as required by the Department including, but not limited
 10 to, data and records necessary for the Department to conduct operations.
- 11 17. Allow access by authorized personnel of the Department, or its contractors, for the
 12 purpose of reviewing documents and systems relevant to the provision of case
 13 management services and supports funded by the Department and shall cooperate with
 14 the Department in the evaluation of such services and supports.
- 15 18. Ifn the case the agency Case Management Agency is unable to continue pProviding
 16 cCase mManagement servICESservicesng clients, the agency must submit a written
 17 notice tois required to the Department at least 12090 days prior to terminating
 18 servicesclosing. The written notice shall include dicate the effective date of termination.
- 19 19. As part of the application process to be an approved Case Management Agency, the
 20 agency shall submit a Closeout Plan that describes all requirements, steps, timelines,
 21 and milestones necessary to fully transition the services provided by the agency Case
 22 Management Agency to another Case Management Agency. The Closeout Plan shall
 23 also designate an individual to act as a closeout coordinator who will ensure that all
 24 requirements, steps, timelines, and milestones contained in the Closeout Plan are
 25 completed and work with the Department and any other agency to minimize the impact of
 26 the transition on Clients and the Department. The Closeout Plan shall include, but is not
 27 limited to, all of the following:
- 28 a. Notification and communication of agency closure to the Department, Clients
 29 and providers;
- 30 b. Transfer of Clients;
- 31 c. Transfer of documentation to include all electronic and physical
 32 documentation;
- 33 d. Transfer of all eClient records through the Department Case Management
 34 System; and
- 35 e. Transfer of Case Management Services.

20. Ensure services agencies and Case Management Agencies are responsible for ensuring persons who are employed by the agency meet the requirement of these regulations

8.519.4 Staffing ~~Patterns~~Patterns

8.519.4.A. The case management agency shall provide staff for the following functions: receptionist/clerical, administrative/supervisory, and case management.

1. The receptionist/clerical function shall include, but not be limited to, answering incoming telephone calls, providing information and referral, and assisting case management agency staff with clerical duties.

2. The administrative/supervisory function ~~of the Case Management Agency~~ shall include, but not be limited to, supervision of staff, training and development of agency staff, fiscal management, operational management, quality assurance, case record reviews on at least a sample basis, resource development, marketing liaison with the Department, and, as needed, providing case management services in lieu of the case manager.

8.519.5. Qualifications of Case Managers:

8.519.5.A. All Home and Community Based (HCBS) case managers must be employed by a certified Case Management Agency, ~~or Single-Entry Point Agency.~~

8.519.5.B. The minimum requirement~~d~~ for ~~Targeted Case Management~~ HCBS case managers ~~for HCBS waivers~~ is a ~~Bachelor's~~ bachelor's degree in a human behavioral science or related field of study. If an individual ~~who~~ does not meet the minimum requirement, the ~~eCase m~~Case Management Agency shall request a waiver from the Department and demonstrate that the individual meets one of the following:

1. Experience working with long-term services and supports (LTSS) population, in a private or public agency, which can substitute for the required education on a year for year basis; ~~or~~

2. A combination of LTSS experience and education, demonstrating a strong emphasis in a human behavioral science field.

3. A copy of the ~~is~~ waiver request and ~~with~~ Department approval shall be kept in the case manager's personnel file.

8.519.5.C. For clients for whom the case manager is providing case management services, ~~eC~~Case managers may not:

1. Be related by blood or marriage to the Client.

2. Be related by blood or marriage to any paid caregiver of the Client.

3. Be financially responsible for the Client.

1 4. Be the Client's legal guardian, authorized representative, or be empowered to make
2 decisions on the Client's behalf through ~~the~~ power of attorney.

3 5. Be a provider for the Client, have an interest in, or be employed by a provider for the
4 same Client.

5 8.519.5.D. Case managers must complete the Department prescribed attestation form.

6 8.519.5.E. Case managers must complete and document the following trainings within 120 days
7 from the date of hire and prior to providing case management services independently:

8 1. Department prescribed assessment tool;

9 2. Service plan development and revision;

10 3. Referral for services, to include Medicaid and non-Medicaid;

11 4. Monitoring;

12 5. Case documentation;

13 6. Level of Care determination process;

14 7. Notices and appeals;

15 8. Incident and critical incident reporting; ~~include critical incident reporting~~

16 9. Waiver requirements and services;

17 10. Person-centered approaches to planning and practice;

18 11. Interviewing and assessment skills; and

19 12. Regulations and state statutes for the LTSS program.

20 8.519.5.F. Case managers must demonstrate and document competency in the following areas:

21 1. Knowledge and experience working with populations served by the ~~Cease M~~anagement
22 ~~A~~gencies;

23 2. Knowledge of the statutes, regulations, policies and procedures regarding public
24 assistance programs and the American with Disabilities Act;

25 3. Knowledge of ~~LTSSong-Term-Supports-and-Services~~ and other community resources;

26 4. ~~and n~~egotiation, conflict resolution, intervention, cultural and linguistic training, disability
27 cultural competency, ~~basis of Americans with Disabilities Act~~, and interpersonal
28 communication skills; and

1 54. Knowledge of consumer direction philosophy and programs.

2 8.519.5.G. Case managers shall attend any mandatory training ~~as~~ required by the Department.

3 8.519.5.H. Case manager supervisors shall ~~educational experience:~~

4 ~~1. The case management agency's supervisor(s) shall~~ meet the minimum requirements for
5 education and/or experience for case managers and shall have one year of competency in pertinent case
6 management knowledge and skills.

7 8.519.5.I. Background checks.:

8 1. Prior to employment, all case management staff must have the following minimal
9 background checks and screenings:

10 a. Criminal; ~~checks~~

11 b. Child abuse and neglect central registry; ~~checks~~

12 c. Medicaid or other federal health programs exclusion list;

13 d. Sex offender registry; and

14 e. Adult protective services data system ~~check.~~

15 2. Background checks must be repeated, at minimum every five (5) years with the exception
16 of the adult protective services data system.

17 3. Proof of checks and ~~these~~ screenings must be maintained and made available for adults.

18
19 **8.519.6 Case Management Agency selection:**

20 8.519.6.A. Clients have the ability to change their Case Management Agencies at any
21 time, with the exception of initial enrollment into a waiver.

22 1. Clients must remain with the initial chosen Case Management Agency (CMA) for
23 at least 60 calendar days or, until the service plan is developed, whichever is
24 sooner.

25 8.519.6.B. At the time the eClient has met all eligibility requirements for an HCBS waiver the
26 Community Centered Board (CCB), shall within two (2) business days send a referral to
27 the Department's contractor to assist the eClient in selecting a CMA.

28 1. The Department's contractor shall contact the eClient within two (2) business
29 days from the date of referral from the CCB.

1 a. ~~When the client seeking case management and/or their guardian, as~~
2 ~~appropriate, knows which approved case management agency the client~~
3 ~~wishes to select, the client will inform the Department's contractor of their~~
4 ~~choice.~~ ~~The eClient, or the Client's guardian, shall inform the~~
5 ~~Department's contractor of their choice of Case Management Agency. ;~~

6 b. ~~When the client seeking case management services and/or their~~
7 ~~guardian, as appropriate, does not know which approved case~~
8 ~~management agency they wish to select, t~~ ~~The Department's contractor~~
9 ~~shall assist the Client in selecting a CMA when necessary, which may~~
10 ~~include, but is not limited to:~~

11 i. ~~Providing a list of qualified CMAs.~~

12 ii. ~~Providing the Department's webpage address and information on~~
13 ~~how to search for a CMA.~~

14 iii. ~~Providing information regarding the qualified CMAs based on the~~
15 ~~eClient's preferences.~~

16 iv. ~~Or~~ ~~In addition to~~ ~~Other assistance as requested or needed by~~
17 ~~the Client.~~

18 2. ~~The Department's contractor shall notify the selected CMA within two (2)~~
19 ~~business days from the date of selection by the eClient.~~

20 a. ~~The Departments contractor shall also send a letter to the eClient with~~
21 ~~the following information:~~

22 i. ~~The selected CMA, address and contact information;~~

23
24 ii. ~~Information about the Client's right to choose a CMA; -document;~~
25 ~~and~~

26 iii. ~~Contact information for the Department's contactor.~~

27 3. ~~The selected CMA shall contact the eClient within two (2) business days from~~
28 ~~notification of selection to confirm the choice and schedule a meeting to develop~~
29 ~~the Service Plan.~~

30

31

32 8.519.6.C Case Management Agency transfer:

1 1 When a eClient wishes to ~~change their select a new~~CMA, the eClient ~~must may~~ notify the
2 current CMA or contact the Department's contractor directly.

3 a. The CMA shall notify the Department's contractor that the eClient would like to
4 change ~~their CMA~~~~case management agencies~~ if the eClient did not notify the
5 contractor directly.;

6 b The Department's contractor shall contact the eClient within two (2) business
7 days from the date of referral from the CMA or notification from the eClient.

8 i. When the eClient seeking case management services and/or their
9 guardian, as appropriate, knows which approved ~~CMA~~~~case management~~
10 ~~agency~~ the eClient wishes to select, the eClient will inform the
11 Department's contractor of their choice.

12 ii. When the eClient seeking case management services and/or their
13 guardian, as appropriate, does not know which approved ~~CMA~~~~case~~
14 ~~management agency~~ the eClient wishes to select, the Department's
15 contractor shall assist the eClient in the selection of a CMA which may
16 include, but is not limited to:

17 1. Providing a list of qualified CMAs.

18 2. Providing the Department's webpage address and information on
19 how to search for a CMA.

20 3. Providing information regarding the qualified CMAs based on the
21 eClient's preferences.

22 4. ~~Or~~ other assistance as requested or needed by the eClient

23 iii. The Department's contractor shall notify the selected CMA within two (2)
24 business days from the date of selection by the eClient. The
25 Department's contractor shall also send a letter to the ~~C~~eClient with the
26 following information:

27 1. The selected CMA;

28 2. Contact information for the CMA;

29 3. Information about the ~~r~~Right to choose a CMA; and

30 4. Contact information for the Department's contractor.

31 iv. The selected CMA shall contact the eClient within two (2) business days
32 from notification of selection to confirm the choice and ~~schedule a~~
33 ~~meeting to develop the Sservice Pplan~~review service pan and any

changes necessitated by the transfer. ~~with the client receiving services and/or their guardian, as appropriate.~~

v. ~~During a CMA transfer, t~~The transferring CMA shall continue to provide case management services until the new CMA has been assigned in the Department's prescribed system and contacted the Client in accordance with 8.519.6.B(3).

8.519.7 Functions of Case Management Agencies for HCBS-CES, HCBS-DD, and HCBS-SLS

8.519.7.A. ~~Case M~~management ~~A~~agencies shall comply with ~~the all applicable~~ regulations pursuant ~~to at~~ Sections 8.500 *et seq.*, ~~8.503 et seq.~~, ~~8.600 et seq.~~ and 8.760 *et seq.*

8.519.7.B. ~~The C~~ase ~~M~~management ~~A~~agency chosen by the ~~e~~Client is responsible for providing case management services ~~is the one chosen by the client.~~

8.519.7.C. ~~Case m~~Management ~~A~~agencies shall establish agency written procedures sufficient to execute case management services according to the provisions of these regulations. Such procedures shall include, but are not limited to:

1. Comprehensive assessment and periodic reassessment of individual's needs;

2. Development and periodic revision of Client Service Plans;

3. Referral and related activities;

4. Monitoring;

5. The authorization and purchase of services and supports;

6. Services and support coordination;

7. Any safeguards necessary to prevent conflict of interest between case management and direct services provision; and

8. Denial and discontinuation of services.

8.519.7.D. ~~Case m~~Management ~~a~~Agencies shall have written procedures concerning the exercise and protection of Client rights pursuant to ~~s~~Sections ~~25.5-10-~~218 through -231, C.R.S.

8.519.7.E. ~~Case M~~management ~~A~~agencies shall have written procedures for Clients to ~~protest/dispute~~ agency decisions, adverse ~~agency~~ actions, or actions of the agency's employees or contractors. ~~Protests/Disputes~~ may be filed by the Client, or parent of a minor Client, the Client's guardian, advocate, or the Client's authorized representative if within the scope of his/her duties. Agency procedures shall meet the requirements of Section 8.605.5. The agency shall offer and provide interpretation or translation services in languages other than English, and through such other modes of communication as may be necessary.

8.519.8 Compliance

8.519.8.A. Pursuant to ~~s~~Section 25.5-10-208 (4), C.R.S., upon a determination by the executive director or designee that services and supports have not been provided in accordance with the program or financial administration standards contained in these rules, the executive director or designee may reduce, suspend, or withhold payment to a ~~Cease M~~management Agency from which the Department purchases services or supports directly.

8.519.8.B. Prior to initiating action to reduce, suspend, or withhold payment to a ~~Cease m~~Management Agency for failure to comply with ~~Department~~ regulations ~~to the Department~~, the executive director or designee shall provide written notice which ~~shall~~ specify the reasons for the action and ~~the therefore in writing and shall specify the~~ actions necessary to achieve compliance.

8.519.8.C. The executive director or designees may revoke the ~~Cease M~~management Agency's certification upon a finding that the ~~case management~~ agency is in violation of provisions of Section 25.5-10-209.5, C.R.S., other state or federal laws, or these rules.

8.519.9 Payment for Case Management Services

8.519.9.A. Targeted case management services are only reimbursed for Clients enrolled in the HCBS-CES, HCBS-CHRP, HCBS-DD, HCBS-SLS, ~~-waivers,~~ and only if the services are in compliance with ~~must comply with the~~ requirements set forth at Section 8.760 *et seq.*

8.519.10 Case Management ~~p~~Payment ~~l~~Liability

8.519.10.A. Failure to prepare the service plan and prior authorization or failure to submit the service plan forms in accordance with Department policies and procedures shall result in the denial of reimbursement for services authorized retroactive to first date of service. The ~~Cease M~~management Agency and/or providers may not seek reimbursement for these services from the Client receiving services.

B. If the ~~Cease M~~management Agency causes a Client enrolled in HCBS waiver services to have a break in payment authorization, the ~~case management~~ agency will ensure that all services continue and will be solely financially responsible for any losses incurred by service providers until payment authorization is reinstated.

8.519.11 Case Management Services

8.519.11.A. Clients must be determined eligible for an HCBS waiver ~~specific~~specific for individuals with intellectual or ~~De~~developmental ~~De~~disabilities by a ~~Single-Entry Point or~~ Community Centered Board prior to receiving ~~pt of~~ case management services.

8.519.11.B. Case management services include the following:

1. Assessment: comprehensive assessment and periodic reassessment of individual needs to determine the need for any medical, educational, social or other services and

1 completed annually or when the Client experiences significant change in need or in level
2 of support. ~~These A~~assessment activities include:

3 a. ~~Obtaining Client history;~~

4 b. ~~Identifying the Client's needs, completing related documentation, and gathering~~
5 ~~information from other sources such as family members, medical providers,~~
6 ~~social workers, and educators, as necessary, to form a complete assessment of~~
7 ~~the Client.~~

8 2. ~~Service plan development and ~~revision;revision: -occurs~~ no less than annually or as a~~
9 ~~warranted by the Client's needs or change in condition, at a time and location convenient~~
10 ~~for the Client with the Client and others chosen by the Client. The case manager shall~~
11 ~~complete and review a service plan for each Client enrolled in the HCBS-CES, HCBS-~~
12 ~~DD, and HCBS-SLS waivers.~~

13 a. ~~The service plan at minimum shall:~~

14 i. ~~Identify needs, personal goals, preferences, unique strengths, abilities,~~
15 ~~desires, health and safety, and risk factors;~~

16 ii. ~~Be in accordance with the Department's regulations, policies and~~
17 ~~procedures;~~

18 iii. ~~Identify the specific services and supports appropriate to meet the needs~~
19 ~~of the eligible Client, and family, as applicable;~~

20 iv. ~~Document decisions made through the service planning process~~
21 ~~including, but not limited to, rights suspension/modifications, the~~
22 ~~existence of appropriate services and supports and the actions~~
23 ~~necessary for the plan to be achieved;~~

24 v. ~~Document the authorized services and supports funded by the~~
25 ~~Department and the date authorized services begin or the projected date~~
26 ~~of initiation;~~

27 vi. ~~Identify a contingency plan for how necessary supports will be provided~~
28 ~~in the event that the Client's family, caregiver, or direct HCBS waiver~~
29 ~~provider is unavailable due to an emergency situation or ~~to~~ unforeseen~~
30 ~~circumstances;~~

31 vii. ~~Have a listing of the service plan participants and their relationship to the~~
32 ~~Client; ~~and~~~~

33 viii. ~~Contain a statement of agreement with the plan signed by the Client or~~
34 ~~other such person legally authorized to sign on the ~~e~~Client's behalf ~~of the~~~~
35 ~~client; and~~

- 1 ix. Be in effect for a period not to exceed one year without review and be
2 reviewed and amended as determined by the case manager, Client, and
3 others as applicable.

- 4 b. The service plan shall document that the Client has been offered a choice:
 - 5 i. In the Home and Community Based Services or institutional care,
 - 6 ii. Of waiver services, including service delivery options, and
 - 7 iii. Of qualified providers.

- 8 c. The service plan shall contain documentation that the Client is aware of the
9 conflict of interest in situations where the Cease Management Agency is also
10 the only agency able to provide direct HCBS waiver services, as approved in the
11 waiver application, and that the Client has been provided a complaint and
12 grievance procedure.

- 13 d. The service plan development shall occur, at times and locations chosen by the
14 Client to include but not limited to the Client's place of residence, place of
15 service, or other appropriate setting as determined by the Client's needs or
16 preferences.

- 17 e. Others chosen by the Client shall be provided notification at least ten (10) days
18 prior to the service plan meeting, if possible.

- 19 f. Copies of the service plan shall be disseminated to all persons and providers
20 involved in implementing the service plan including the Client, their legal
21 guardian, authorized representative and parent(s) of a minor, and others as
22 applicable. If requested, copies shall be made available prior to the provision of
23 services or supports, or within a reasonable period of time not to exceed thirty
24 (30) days from the development of the service plan and in accordance with these
25 rules;

- 26 3. Referral: the case manager shall assist Clients to obtain needed HCBS waiver services
27 or other programs and services, to include non-Medicaid services, which include making
28 referrals to providers, scheduling appointments, and assisting with access to
29 transportation as needed or requested by the Client, and assisting with .

- 30 4. Monitoring: the case manager shall ensure that Clients receive services in accordance
31 with their service plan and monitor the quality of the services and supports provided to
32 the Clients.
 - 33 a. The frequency and level of monitoring shall meet the requirements of the waiver
34 in which the Client is enrolled. At a minimum, monitoring shall occur at least once
35 per quarter, face-to-face, in a place where services are delivered, and review the
36 following for each Client:

- 1 i. The delivery and quality of services and supports identified in the service
2 plan including ~~e~~-ensuring that services are ~~nd~~ delivered in accordance
3 with the scope, frequency, and duration documented ~~in~~ the service
4 plan;
 - 5 ii. The health, safety and welfare of Clients, including the provider
6 agencies' procedures to address the ~~e~~Client's needs ~~of the client~~;
 - 7 iii. The satisfaction with services and choice in providers;
 - 8 iv. Services are ~~being~~ delivered in a way that promote a Client's ability to
9 engage in self-determination, self- representation and self-advocacy;
 - 10 v. Concerns or issues as they relate to provider agencies. The case
11 manager shall contact the provider agency to coordinate, arrange, or
12 adjust services to address ~~and resolve~~ quality issues or concerns; ~~and~~
13 ~~to resolve any issues~~;
 - 14 vi. The case manager shall immediately report, to the appropriate agency,
15 any information which indicates an overpayment, incorrect payment or
16 misutilization of any public assistance benefit and shall cooperate with
17 the appropriate agency in any subsequent recovery process.
- 18 5. Remediation: the case manager shall identify ~~and implement~~, ~~resolve~~, ~~and to the extent~~
19 ~~possible, established~~ strategies to prevent and ~~help~~ resolve problems with the delivery of
20 services and supports.

21 **8.519.12 Case Documentation**

22 8.519.12.A. The ~~Ce~~ase ~~M~~anagement ~~A~~gency shall complete and maintain all required records in
23 the state approved IMS and shall maintain individual case records at the agency level for any
24 additional documents associated with the individual enrolled in a HCBS waiver.

25 1. The case records shall include:

- 26 a. Identifying information, including the Client's state identification
27 (Medicaid) number, date of birth (DOB) social security number (SSN),
28 address and phone number;
- 29 b. Department required forms specific to the program in which the Client is
30 enrolled; and
- 31 c. Documentation of all case management activity ~~required by regulation~~.

32 2. Case management documentation shall meet all of the following standards:

- 33 a. Be objective and understandable;

- b. Occur at the time of the activity or no later than five (5) business days from the time of the activity;
 - c. Dated according to the date of the activity, including the year;
 - d. Entered into the Department's IMS;
 - e. Identify the person creating the documentation;
 - f. Entries must be concise and include all pertinent information;
 - g. All information regarding an individual must be kept together, in a logical organized sequence, for easy access and review;
 - h. The source of all information shall be recorded, and the record shall clarify whether information is observable and objective fact or is a someone's judgement or conclusion; ~~on the part of anyone;~~
 - i. All persons and agencies referenced in the documentation must be identified by name and by relationship to the individual;
 - j. All forms prescribed by the Department shall be completely and accurately filled out by the case manager; and,
 - k. Whenever the case manager is unable to comply with any of the regulations specifying the time frames within which case management activities/agencies are to be completed, due to circumstances outside the case management agency's control, the circumstances shall be documented in the case record.
- These circumstances shall be taken into consideration when upon monitoring the of Case Management Agency's performance.

8.519.13 Choice of provider agency for authorized HCBS waiver services

8.519.13. A. ~~As appropriate, and families who enroll in HCBS waiver services will be receiving support services shall have the freedom to choose from qualified provider agencies from service agencies which have been selected or selected and approved in accordance with Sections 8.602.1 and 8.603, as applicable, and section 8.609.1.~~

8.519.13.B. ~~Case Management Agencies shall provide Clients, and/or, and/or their guardians, and authorized representatives, (as appropriate), e, shall be provided informed choice information on all providers agencies qualified to provide the authorized HCBS waiver services.~~

1. When the Client ~~or his or her~~ guardian, or authorized ~~representative~~ when applicable, knows which qualified provider agency(ies) they ~~wish~~ want to provide the authorized HCBS waiver service(s), the Client shall inform the case manager of their choice.

a. The case manager shall contact the selected provider agency(ies) regarding the Client's needs, the services authorized, and the scope, frequency, and duration of services.

b. If the provider agency(ies) are willing to provide the authorized HCBS waiver service(s), the case manager shall create the Prior Authorization Request in accordance with Section 8.519.14.

c. If the provider agency(ies) are not willing to provide the authorized HCBS waiver service(s), the case manager shall inform the Client and discuss options for additional provider selection as outlined in Section 8.519.13.B(2).

2. If the Client ~~or or his or her~~ guardian, (as appropriate) does not know which provider agency(ies) the eClient ~~client~~ wishes wants to select, the case manager shall provide informed choice to the Client which may include, but is not limited to:

a. Providing a list of qualified provider agencies; ~~or~~

b. Providing the Department's webpage address and information on how to search for a qualified provider agency; ~~or~~

c. Providing information resources for accessing information about provider agency quality, such as survey information, that is available to the public; ~~or~~

d. Providing information regarding qualified provider agencies based on the eClient's preferences; ~~or~~

regarding qualified provider agencies based on the client's preferences; ~~or~~

e. Contacting all qualified provider agencies, with the information regarding the requested and authorized service(s) ~~and including the scope, frequency, level of support necessary, and duration of the authorized services for the purpose of receiving responses from qualified service agencies who can serve the eClient; or~~

f. In addition to ~~or other~~ assistance as requested or needed by the Client.

1 _____ 3. The case manager shall document the Client's choice
2 of provider agency(ies) and the method by which the choice was made in the
3 Service Plan and notes in the Department's pPrescribed sSystem.

4 _____ 4. Case Manager shall contact all requested providers within five (5)
5 business days of the Clients selection.

6 **8.519.14 Prior Authorization Requests (PAR)**

7 8.519.14.A. The case manager shall submit a the PAR in compliance with all applicable regulations
8 and ensure requested services are:

- 9 1. Consistent with the Client's documented medical condition and needs
10 assessment;
- 11 2. Adequate in amount, frequency, scope and duration in order to meet the Client's
12 needs and within the limitations set forth in the current federally approved waiver;
13 and
- 14 3. Not duplicative of another service, including but not limited to services provided
15 through:
- 16 _____ a. Medicaid state plan benefits,
17 _____ b. Third party resources,
18 _____ c. Natural supports,
19 _____ d. Charitable organizations, or
20 _____ e. Other public assistance programs.
- 21 4. Services delivered without prior authorization shall not be reimbursed except for
22 provision of services during an emergency pursuant to Section 8.058.4.

23
24 **8.519.15 Regional Center Referral Process**

25 8.519.15.A. Referrals to the Regional Centers shall comply with the Regional Centers
26 admission policy located on the Colorado Department of Human Services website.

27
28 **8.519.16 Incident Reporting**

1 8.519.16.A. Case Management Agencies shall have a written policy and procedure for the
 2 recording, reviewing, and reporting ~~and reviewing of incidents.~~ Incident reporting is
 3 required when the following occurs: ~~which shall include, but not limited to:~~

4 1. Injury ~~to a client receiving services;~~

5 2. Lost or missing Clients ~~receiving service;~~

6 3. Medical emergencies ~~involving clients receiving services;~~

7 4. Hospitalizations ~~of clients receiving services;~~

8 5. Death ~~of client receiving services;~~

9 6. Errors in medication administration;

10 7. Incidents or reports of actions by Clients ~~receiving services~~ that are unusual and
 11 required review;

12 8. Allegations of abuse, mistreatment, neglect, or exploitation;

13 9. Use of safety control procedures;

14 10. Use of emergency control procedures; and,

15 11. Stolen personal property belonging to a Client receiving services.

16 8.519.16.B. Allegations of abuse, mistreatment, neglect and exploitation, and injuries which
 17 require emergency medical treatment or result in hospitalization or death shall be
 18 reported immediately to the agency administrator or designee, ~~Cease M~~management
 19 Agency, and to the ~~CCB~~community-centered board within 24 hours.

20 1. Case managers shall comply mandatory reporting requirements set forth
 21 at C.R.S 18-6-108 and C.R.S 26-3.1-102.

22 8.519.16.C. ~~Incident r~~Reports of incidents shall be placed in the ~~e~~Client's record ~~of the client.~~

23 8.519.16.D. ~~Incident reports~~ Records of incidents shall be made available to the ~~CCB,~~
 24 community-centered board, ~~e~~Case ~~m~~Management Agencies, and the Department upon
 25 request.

26 **8.519.17 Client Responsibilities**

27 8.519.17.A. A Client, when provided with appropriate and necessary accommodations, or
 28 guardian is responsible to:

29 1. Provide ~~ing~~ accurate information regarding the Client's ability to complete
 30 activities of daily living; ~~r~~

- 1 2. Assist in promoting the Client's independence;
- 2 3. Cooperate in the determination of financial eligibility for Medicaid;
- 3 4. Notify the case manager within thirty (30) days after:
 - 4 a. Changes in the Client's support system, medical, physical or
5 psychological condition, or living situation including any hospitalizations,
6 emergency room admissions, placement in ~~to~~ a nursing home or
7 Intermediate Care Facility for Individuals with Intellectual Disability (ICF-
8 IID)
 - 9 b. The Client has not received an HCBS waiver service during one (1)
10 calendar ~~(1)~~ month;
 - 11 c. Changes in the Client's care needs;
 - 12 d. Problems with receiving HCBS waiver services for which the Client
13 would like the case manager's assistance to resolve; ~~and~~
 - 14 e. Changes that may affect Medicaid financial eligibility, including promptly
15 reporting ~~of~~ changes in income or assets;
 - 16 f. Client will notify the Case Manager when withdrawing from services.
- 17 5. Cooperate with Case Management Agency requirements for the functions of
18 case management outlined in 8.519 et seq.

19 8.519.18 Use of an Authorized Representative

20 8.519.18.A. Clients who are eligible for services and supports, the parent or guardian of a
21 minor, or legal guardian of an adult, shall be informed at the time of enrollment and at
22 each annual review of the service plan that they may designate an authorized
23 representative.

24 The designation of an authorized representative must occur with informed consent of the
25 Client ~~receiving services~~, or the parent or guardian of a minor, or legal guardian of an
26 adult.

27 8.519.18.B. A ~~The~~ designation of an authorized representative shall be in writing and specify
28 the extent of the authorized representative's involvement in assisting the Client receiving
29 services, in acquiring or utilizing services or supports available, and in safeguarding the
30 Client's rights.

31 8.519.18.C. The written designation of an authorized representative shall be maintained in
32 the ~~e~~Client's record ~~of the client receiving services~~ and shall be reviewed annually.

1 8.519.18.D. The Client ~~receiving services~~ may withdraw their designation of an authorized
2 representative at any time, and ~~must and will~~ notify ~~thee~~ case manager of the withdrawal.

3 8.519.19 Petitions for Declaratory Orders

4 8.519.19.A. Disposition of petitions for declaratory orders

- 5 1. The executive director of the Department or designee may entertain petitions for
6 declaratory orders in accordance with Section 24-~~42~~-105 (11), C.R.S., when a
7 controversy or uncertainty exists as to the applicability of any statutory or
8 regulation of the Department to a party. ~~involving the application of these rules of~~
9 Article 10 of Title 25.5. A petition may be filled when a process for resolving the
10 controversy or uncertainty is not otherwise provided in these rules. ~~and in~~
11 interpretation of the law assist the parties.

12 8.519.19.B. Any petition filled pursuant to this rule shall set forth the following:

- 13 1. The name and address of the petitioner;
14 2. The statute, rule or order to which the petition relates;
15 3. A concise statement of all of the facts necessary to show the nature of the
16 controversy or uncertainty; and.
17 4. All parties directly involved in the subject matter of the petition ~~as~~ known to the
18 petitioner.

19 8.519.19.C. If the executive director or designee decides to rule on the petition, the following
20 procedure shall apply:

- 21 1. The executive director or designee shall provide notice of the petition and an
22 opportunity to respond to the petition to all parties noted by the petitioner or
23 otherwise known to the Department to be directly interested in the petition.;
24 2. The executive director or designee may rule upon the petition based solely upon
25 the facts presented in the petition and response. In such a case any ruling of the
26 Department will apply only to the extent of the facts presented in the petition and
27 the response.;
28 3. The executive director or designee may request the petitioner or any involved
29 party to submit additional information, or file a written brief, memorandum, or
30 statement of position.;
31 4. The executive director or designee may rule upon the petition without a hearing
32 or may set the petition for hearing, upon due notice to all parties to obtain
33 additional facts or information. ~~and.~~

1 5. The ruling of the Department shall be Final Agency Action subject to judicial
 2 review. ~~binding upon all parties to the matter.~~

3 **8.519.20 Grievance/Complaint process**

4 8.519.20.A. Case Management Agencies shall have procedures setting forth a process
 5 for the timely resolution of grievances or complaints ~~of the client receiving services,~~
 6 ~~parents of a minor, guardian and/or authorized representative, as applicable.~~ Use of the
 7 ~~grievance procedure shall not prejudice the future provision of appropriate services or~~
 8 ~~supports.~~

9 8.519.20.B. The grievance procedure shall be provided, orally and in writing, to all Clients
 10 receiving services, the parents of a minor, guardian and/or authorized representative, as
 11 applicable, at the time of submission and at any time that changes to the procedure
 12 occur.

13 8.519.20.C. The grievance procedure shall, at a minimum, including the following:

- 14 1. Contact information for a person within the CMA who will receive grievances.
 15 ~~Who within the agency will receive grievances, to include the contact information~~
 16 ~~for the individual.~~
- 17 2. Identification of support person(s) who can ~~to assist the eClient in submitting in~~
 18 ~~the submission of a grievance.;~~
- 19 3. An opportunity ~~for clients to find a mutually acceptable solution. This could~~
 20 ~~include the use of mediation if both parties voluntarily agree to this process.;~~
- 21 4. Timelines for ~~resolving the resolution of the grievance.;~~
- 22 5. Consideration by the agency director or designee if the grievance cannot be
 23 resolved at a lower level. ~~;~~ and,
- 24 6. Assurances that ~~n~~No Client shall be coerced, intimidated, threatened or retaliated
 25 against because the Client has exercised his or her right to file a grievance or
 26 has participated in the grievance process.

27 **8.519.21 Termination from services and supports**

28 8.519.21.A. A Client shall be terminated from services and supports ~~if upon determination by~~
 29 ~~the community centered board CCB or Cease Management Agency determines that~~
 30 ~~the Client no longer meets the eligibility criteria.~~

31 8.519.21.B. A Client ~~receiving services~~ shall be discontinued from a service or support upon
 32 determination, made pursuant to the service planning process, that the services or
 33 supports are no longer appropriate or necessary to meet the ~~eClient's needs.~~ ~~of a client~~
 34 ~~receiving services.~~

1 8.519.21.C. A Client receiving services may notify a service agency, verbally or in writing, that
 2 he or she no longer wishes to receive services from the provider agency. If the Client is a
 3 minor, has a legal guardian, authorized representative or is under court jurisdiction, the
 4 Client's parent(s), guardian or authorized representative shall be notified immediately
 5 after the Client notifies the service agency of the desire to discontinue services. The
 6 parent(s) of a minor or legal guardian shall be provided the option to exercise their
 7 decision-making authority on behalf of the Client receiving service, unless otherwise
 8 ordered by a court.

9 **8.519.22 Notice and Appeal Rights**

10 8.519.22.A. The Case Management Agency shall provide the long-term care notice of action
 11 form to Clients within eleven (11) business days regarding their appeal rights in
 12 accordance with Section 8.057 et seq, when:

- 13 1. An ~~adverse~~ adverse action occurs that affects the provision of the Client's waiver
 14 services, or:

15 8.519.22.B. The case management agency shall notify all providers in the Client's service
 16 plan within one (1) business day of the ~~adverse~~ adverse action.

- 17 1. The case management agency shall notify the county Department of
 18 Human/Social services income maintenance technician within ten (10) business
 19 days of an adverse action that may affect financial eligibility for HCBS waiver
 20 services.

21 8.519.22.C. The applicant or Client shall be ~~informed of an adverse~~ provided a notice of
 22 ~~adverse~~ action if the applicant or Client is determined to be ineligible as set forth in the
 23 waiver specific Client eligibility criteria and the following:

- 24 1. The Client cannot be served safely within the cost containment as identified in
 25 the HCBS waiver;
 26 2. The Client is placed in an institution for treatment for more than thirty (30)
 27 consecutive days;
 28 3. The Client is detained or resides in a correctional facility; or,
 29 4. The Client enters an institute for mental health for more than thirty (30)
 30 consecutive days.

31 8.519.22.D. The Client shall be notified, pursuant to Section 8.057.2.A., when the following
 32 results in an adverse action that does not relate to waiver Client eligibility requirements:

- 33 1. A waiver service is reduced, terminated or denied because it is not a
 34 demonstrated need in the needs assessment;

1 2. A service plan or waiver service exceeds the limits set forth in the federally
2 approved waiver;

3 3. The Client is being terminated from HCBS due to a failure to attend a Level of
4 Care assessment appointment after three (3) attempts to schedule by the case
5 manager within a thirty (30) day consecutive period.

6 4. The Client is being terminated from HCBS due to a failure to attend a Service
7 Plan appointment after three (3) attempts to schedule by the case manager
8 within a thirty (30) day consecutive period.

9 5. The Client enrolls in a different LTSS program, or

10 6. Benefits are terminated because the Client moves out of state. The client
11 shall be discontinued effective the day after the date of move.

12 A. A Client who leaves the state on a temporary basis, with intent to return
13 to Colorado, pursuant to Section 8.100.3.B.4, shall not be terminated
14 unless one or more of the other Client eligibility criteria are no longer
15 met.

16 7. The Client voluntarily withdraws from the waiver. The Client shall be terminated
17 from the waiver effective upon the day after the date on which the Client's
18 request is documented.

19 A. The case manager shall review with the Client their decision to
20 voluntarily withdraw from the waiver. The Case Manager shall not send a notice
21 of action, upon confirmation of withdraw.

22 8.519.22.E. The case management agency shall not send the LTC notice of action form
23 when the basis for termination is death of the Client, but shall document the event in the
24 Client record. The date of action shall be the day after the date of death.

25 8.519.22.F. The case management agency shall appear and defend their decision at the
26 Office of Administrative Courts when the case management agency has made a denial or
27 adverse action against a Client.

28 1. When the Office of Administrative Courts rules in favor of the appellant,
29 the Case Management Agency shall file exceptions when appropriate.

30 **8.519.23 Retrospective review process**

31 8.519.23.A. Services provided to a Client are subject to a retrospective review which includes
32 but is not limited to a performance and quality review by the Department. The
33 retrospective review shall ensure that services:

34 1. Identified in the service plan are based on the Client's assessed needs;

2. Have been requested and approved prior to the delivery of services;

3. Provided to a Client are in accordance with the service plan, and;

4. Provided within the specified HCBS waiver service definition in the federally approved HCBS waiver.

8.519.23.B When the retrospective review identifies areas of noncompliance, the case management agency shall be required to submit a corrective action plan that is monitored for completion by the Department.

8.519.23.C. The inability of the case management agency to implement a plan of correction within the timeframes identified in the plan of correction may result in temporary suspension of claims payment or termination of the provider agreement.

8.519.23.D. When the provider has received reimbursement for services and the review by the Department identifies that it is not in compliance with requirements, the amount identified is subject to recovery pursuant to Section 8.076. amount reimbursed may be subject to the reversal of claims, recovery of amount reimbursed, withholding of payments, or termination of provider status.

8.519.27 Transition Coordination Services

8.519.27.A Definitions

1. Case Management Agency (CMA) means a public or private not-for-profit or for-profit agency that meets all applicable state and federal requirements and is certified by the Department to provide case management services for Home and Community Based Services waivers pursuant to ~~Sections 25.5.-10-209.5, C.R.S. and CRS 25.5-6-106,~~ and pursuant to a provider participation agreement with the state department.
2. Community risk level means the potential for a ~~e~~Client living in a community-based arrangement to require emergency services, to be admitted to a hospital, skilled nursing facility, or ~~i~~intermediate ~~C~~are ~~F~~acility for ~~l~~individuals with ~~l~~intellectual ~~D~~isabilities, be evicted from their home or be involved with law enforcement due to identified risk factors.
3. Post-transition monitoring means the activities that occur after a ~~e~~Client has successfully transitioned into the community and is a recipient of home-and community-based services.
4. Pre-~~T~~ransition ~~e~~Coordination means activities that occur before a ~~C~~lient has transitioned into the community to prepare the ~~C~~lient for success in community living and integration.
5. Risk factors means factors that include but are not limited to health, safety, environmental, community integration, service interruption, inadequate support systems

- 1 and substance abuse that may contribute to an individual's community risk level and
2 potential for readmission to an institution.
- 3 6. Risk mitigation plan means the document that records the risk mitigation planning
4 process. Risk mitigation plans are used to conduct post-discharge monitoring of
5 effectiveness of risk prevention strategies; to document identification of additional risk
6 factors, and to revise risk incident response plans.
- 7 7. Risk mitigation planning means the process of identifying risk factors, developing options
8 and actions to enhance opportunities and prevent adverse consequences that would
9 result if risk is not managed and identifying planned actions to take in response to an
10 adverse consequence should a risk be realized.
- 11 8. Service plan means the written document that specifies identified and needed services,
12 to include Medicaid and non-Medicaid services regardless of funding source, to assist a
13 eClient to remain safely in the community and developed in accordance with the
14 Department regulations.
- 15 9. Transition eCoordination means support provided to a eClient who is transitioning from a
16 skilled nursing facility, Iintermediate Care Facility for Iindividuals with Iintellectual
17 eDisabilities, or regional center and includes the following activities: comprehensive
18 assessment for transition, community risk assessment, development of a transition plan,
19 referral and related activities, and monitoring and follow up activities as they relate to the
20 transition.
- 21 10. Transition assessment means the process of capturing a comprehensive understanding
22 of the eClient's health conditions, functional needs, transition needs, behavioral concerns,
23 social and cultural considerations, educational interests, risks and other areas important
24 to community integration and transition to a home and community-based setting.
- 25 11. Transition eCoordination agency (TCA) means a public or private not-for-profit or for-
26 profit agency that meets all applicable state and federal requirements and is certified by
27 the Department to provide Itransition Ceoordination pursuant to a provider participation
28 agreement with the state Ddepartment.
- 29 12. Transition coordinator (TC) means a person who provides tItransition eCoordination
30 services and meets all regulatory requirements for a transition coordinator.
- 31 13. Transition options team (TOT) means the group of people involved in supporting and
32 implementing the transition, to include the person receiving services, the transition
33 coordinator, the family, guardian or authorized representative, the home- and community-
34 based services case manager, and others chosen by the individual receiving services as
35 being valuable to participate in the transition process.
- 36 14. Transition period means the period of time in which the eClient receives Transition
37 Coordination for the purpose of successful integration into community living. A transition
38 period is complete when the eClient has successfully established community residence
39 and is no longer in need of Transition Coordination based on the risk mitigation plan.

- 1 15. Transition plan means the written document that identifies person-centered goals,
2 assessed needs, and the choices and preferencess of services and supports to address
3 the identified goals and needs; appropriate services and additional community supports;
4 outlines the process and identifies responsibilities of transition options team members;
5 details a risk mitigation plan; and establishes a timeline that will support an individual in
6 transitioning to a community setting of their choosing.
- 7 16. Transition planning means development of a transition plan, risk mitigation plan and
8 transition plan in coordination with the transition options team.

9

10

11

12

13 8.600 Services for Individuals with Intellectual and Developmental Disabilities

14

15 8.600.2 Scope and Purpose

16 These rules govern services and supports for individuals with developmental disabilities authorized and
17 funded in whole or in part through the Colorado Department of Health Care Policy and Financing. These
18 services and supports include the following, as provided by the Colorado Revised Statutes and through
19 annual appropriation authorizations by the Colorado General Assembly:

- 20 A. Services and supports provided to residents of a State operated facility or program or purchased
21 by the Department.
- 22 B. The purchase of services and supports through Ceommunity eCentered Bboards, case
23 management agencies, and service agencies.
- 24 C. ~~Such~~eOther services and supports specifically authorized by the Colorado General Assembly.
- 25 D. ~~Such~~ services and supports ~~as are~~ funded through the Home and Community-Based Services
26 wWaivers under Sections 1915(c), 1902(a)(10), and 1902(a)(1) of the Social Security Act and
27 under Section 25.5-4-401, et seq., C.R.S.

28

29

30

31 8.600.4 Definitions

1 As used in these rules, unless the context requires otherwise:

2 “Abuse,” for the purpose of mistreatment, abuse, neglect and exploitation, means any of the following
3 acts or omissions committed against a person with an intellectual or developmental disability:

4 A. The non-accidental infliction of physical pain or injury, as demonstrated by, but not limited to, substantial or multiple skin bruising, bleeding, malnutrition, dehydration, burns, bone
5 fractures, poisoning, subdural hematoma, soft tissue swelling, or suffocation;

7 B. Confinement or restraint that is unreasonable under generally accepted caretaking
8 standards; or

9 C. The subjection to sexual conduct or contact classified as a crime under the “Colorado
10 Criminal Code,” Title 18, C.R.S.

11 “Algorithm” means a formula that establishes a set of rules that precisely defines a sequence of
12 operations. An algorithm is used to assign eClients into one of six support levels in the Home and
13 Community Based Services for Persons with Developmental Disabilities (HCBS-DD) and Home and
14 Community Based Services-Supported Living Services (HCBS-SLS) waivers.

15 “Assistive Technology Devices” means any item, piece of equipment, or product system that is used to
16 increase, maintain, or improve functional capabilities of individuals with disabilities.

17 “Assistive Technology Services” includes, but is not limited to, the evaluation of a person's need for
18 assistive technology; helping to select and obtain appropriate devices; designing, fitting and customizing
19 those devices; purchasing, repairing or replacing the devices; and, training the individual, or if appropriate
20 a family member, to use the devices effectively.

21 Authorized Representative means an individual designated by a Client or by the parent or guardian of the
22 Client, if appropriate, to assist the Client in acquiring or utilizing services and supports, this does not
23 include the duties associated with an Authorized Representative for Consumer Directed Attendant
24 Support Services (CDASS) as defined in 8.510.1.

25 “Authorized Representative” means an individual designated by the person receiving services, or by the
26 parent or guardian of the person receiving services, if appropriate, to assist the person receiving services
27 in acquiring or utilizing services and supports pursuant to section 25.5-10, C.R.S.

28 “Authorized Services” means those services and supports authorized pursuant to Ssection 25.5-10-206,
29 C.R.S., which the Department shall provide directly or purchase subject to available appropriations for
30 persons who have been determined to be eligible for such services and supports and as specified in the
31 eligible person's individualized plan.

32 “Caretaker” means a person who:

33 A. Is responsible for the care of a person with an intellectual or developmental disability as a
34 result of a family or legal relationship;

- 1 B. Has assumed responsibility for the care of a person with an intellectual or developmental
2 disability; or
- 3 C. Is paid to provide care, services, or oversight of services to a person with an intellectual
4 or developmental disability.

5 “Caretaker Neglect” means neglect that occurs when adequate food, clothing, shelter, psychological care,
6 physical care, medical care, habilitation, supervision, or other treatment necessary for the health and
7 safety of a person with an intellectual and developmental disability is not secured for a person with an
8 intellectual and developmental disability or is not provided by a caretaker in a timely manner and with the
9 degree of care that a reasonable person in the same situation would exercise, or a caretaker knowingly
10 uses harassment, undue influence, or intimidation to create a hostile or fearful environment for an at-risk
11 adult with an intellectual and developmental disability.

12 A. Notwithstanding the provisions of this subsection, the withholding, withdrawing, or
13 refusing of any medication, any medical procedure or device, or any treatment, including
14 but not limited to resuscitation, cardiac pacing, mechanical ventilation, dialysis, artificial
15 nutrition and hydration, in accordance with any valid medical directive or order, or as
16 described in a palliative plan of care, shall not be deemed caretaker neglect.

17 B. As used in this subsection, “medical directive or order” includes a medical durable power
18 of attorney, a declaration as to medical treatment executed pursuant to Section 15-18-
19 108, C.R.S., a medical order for scope of treatment form executed pursuant to Article
20 18.7 of Title 15, C.R.S., and a CPR Directive executed pursuant to Article 18.6 of Title 15,
21 C.R.S.

22 “Case Management Agency” (CMA) means a public or private not-for-profit or for-profit agency that meets
23 all applicable state and federal requirements and is certified by the Department to provide case
24 management services for Home and Community Based Services waivers pursuant to Sections 25.5-10-
25 209.5, C.R.S. and CRS 25.5-6-106, C.R.S., and pursuant to a provider participation agreement with the
26 state department.

27 ~~“Case Management Agency” (CMA) means a Community Centered Board within a designated service~~
28 ~~area where an applicant or client can obtain case management services.~~

29 “Challenging Behavior” means behavior that puts the person at risk of exclusion from typical community
30 settings, community services and supports, or presents a risk to the health and safety of the person or
31 others or a significant risk to property.

32
33 “Client” means an individual who has met Long Term Services and Supports (LTSS) Care (LTC)-eligibility
34 requirements and has been offered and agreed to receive Home and Community Based Services (HCBS)
35 in the Children's Extensive Supports (HCBS-CES) waiver, the HCBS waiver for Children's Habilitation
36 Residential Program (CHRP), the HCBS waiver for Persons with Developmental Disabilities (HCBS-DD),
37 Family Support Services Program (FSSP), or the Supported Living Services (HCBS-SLS) waiver.

38 “Community Centered Board” means a private corporation, for-profit or not-for-profit that is designated
39 pursuant to Section 25.5-10-209, C.R.S., responsible for, but not limited to conducting Developmental
40 Disability determinations, waiting list management Level of Care Evaluations for Home and Community

1 Based Service waivers specific to individuals with intellectual and developmental disabilities, and
2 management of State Funded programs for individuals with intellectual and developmental disabilities.

3 s.

4 ~~“Community Centered Board (CGB)” means a private corporation, for profit or not for profit, which, when~~
5 ~~designated pursuant to section 25.5-10-209, C.R.S., provides case management services to persons with~~
6 ~~developmental disabilities, is authorized to determine eligibility of such persons within a specified~~
7 ~~geographical area, serves as the single point of entry for persons to receive services and supports under~~
8 ~~section 25.5-10, C.R.S., and provides authorized services and supports to such persons either directly or~~
9 ~~by purchasing such services and supports from service agencies.~~

10 “Comprehensive Review of the Person's Life Situation” means a thorough review of all aspects of the
11 person's current life situation by the program approved service agency in conjunction with other members
12 of the interdisciplinary team.

13 “Comprehensive Services” means habilitation services and supports that provide a full day (24 hours) of
14 services and supports to ensure the health, safety and welfare of the individual, and to provide training
15 and habilitation services or a combination of training and supports in the areas of personal, physical,
16 mental and social development and to promote interdependence, self-sufficiency and community
17 inclusion. Services include residential habilitation services and supports, day habilitation services and
18 supports and transportation.

19 “Consent” means an informed assent, which is expressed in writing and is freely given. Consent shall
20 always be preceded by the following:

- 21 A. A fair explanation of the procedures to be followed, including an identification of those which are
22 experimental;
- 23 B. A description of the attendant discomforts and risks;
- 24 C. A description of the benefits to be expected;
- 25 D. A disclosure of appropriate alternative procedures together with an explanation of the respective
26 benefits, discomforts and risks;
- 27 E. An offer to answer any inquiries regarding the procedure;
- 28 F. An instruction that the person giving consent is free to withdraw such consent and discontinue
29 participation in the project or activity at any time; and,
- 30 G. A statement that withholding or withdrawal of consent shall not prejudice future provision of
31 appropriate services and supports to individuals.

32 “Developmental Delay” means that a child meets one or more of the following:

- 33 A. A child who is less than five (5) years of age at risk of having a developmental disability because
34 of the presence of one or more of the following:

- 1 1. Chromosomal conditions associated with delays in development,
- 2 2. Congenital syndromes and conditions associated with delays in development,
- 3 3. Sensory impairments associated with delays in development,
- 4 4. Metabolic disorders associated with delays in development,
- 5 5. Prenatal and perinatal infections and significant medical problems associated with delays
- 6 in development,
- 7 6. Low birth weight infants weighing less than 1200 grams, or
- 8 7. Postnatal acquired problems resulting in delays in development.

9 B. A child less than five (5) years of age who is significantly delayed in development in one or more
10 of the following areas:

- 11 1. Communication,
- 12 2. Adaptive behavior,
- 13 3. Social-emotional,
- 14 4. Motor,
- 15 5. Sensory, or
- 16 6. Cognition.

17 C. A child less than three (3) years of age who lives with one or both parents who have a
18 developmental disability.

19

20 "Developmental Disabilities Professional" means a person who has at least a Bachelor's Degree and a
21 minimum of two (2) years' experience in the field of developmental disabilities or a person with at least
22 five (5) years of experience in the field of developmental disabilities with competency in the following
23 areas:

- 24 A. Understanding of civil, legal and human rights;
- 25 B. Understanding of the theory and practice of positive and non-aversive behavioral intervention
26 strategies;
- 27 C. Understanding of the theory and practice of non-violent crisis and behavioral intervention
28 strategies.

1 “Developmental Disability” means a disability that:

2 A. Is manifested before the person reaches twenty-two (22) years of age;

3 B. Constitutes a substantial disability to the affected individual, as demonstrated by the criteria
4 below at C, 1 and/or C, 2; and,

5 C. Is attributable to an intellectual and developmental disability or related conditions which include
6 Prader-Willi syndrome, cerebral palsy, epilepsy, autism or other neurological conditions when
7 such conditions result in impairment of general intellectual functioning or adaptive behavior
8 similar to that of a person with an intellectual and developmental disability. Unless otherwise
9 specifically stated, the federal definition of “developmental disability” found 42 U.S.C. § 15002, et
10 seq., shall not apply. ~~s attributable to mental retardation or related conditions which include~~
11 ~~cerebral palsy, epilepsy, autism or other neurological conditions when such conditions result in~~
12 ~~either impairment of general intellectual functioning or adaptive behavior similar to that of a~~
13 ~~person with mental retardation.~~

14 1. “Impairment of general intellectual functioning” means that the person has been
15 determined to have a full scale intellectual quotient equivalent which is two or more
16 standard deviations below the mean (70 or less assuming a scale with a mean of 100
17 and a standard deviation of 15).

18 a. A secondary score comparable to the General Abilities Index for a Wechsler
19 Intelligence Scale that is two or more standard deviations below the mean may
20 be used only if a full scale score cannot be appropriately derived.

21 b. Score shall be determined using a norm-referenced, standardized test of general
22 intellectual functioning comparable to a comprehensively administered Wechsler
23 Intelligence Scale or Stanford-Binet Intelligence Scales, as revised or current to
24 the date of administration. The test shall be administered by a licensed
25 psychologist or a school psychologist.

26 c. When determining the intellectual quotient equivalent score, a maximum
27 confidence level of ninety percent (90%) shall be applied to the full scale score to
28 determine if the interval includes a score of 70 or less and shall be interpreted to
29 the benefit of the applicant being determined to have a developmental disability.

30 2. “Adaptive behavior similar to that of a person ~~with-with intellectual disability mental~~
31 ~~retardation~~” means that the person has an overall adaptive behavior composite or
32 equivalent score that is two or more standard deviations below the mean.

33 a. Measurements shall be determined using a norm-referenced, standardized
34 assessment of adaptive behaviors that is appropriate to the person's living
35 environment and comparable to a comprehensively administered Vineland Scale
36 of Adaptive Behavior, as revised or current to the date of administration. The
37 assessment shall be administered and determined by a professional qualified to
38 administer the assessment used.

1 b. When determining the overall adaptive behavior score, a maximum confidence
2 level of ninety percent (90%) shall be applied to the overall adaptive behavior
3 score to determine if the interval includes a score of 70 or less and shall be
4 interpreted to the benefit of the applicant being determined to have a
5 developmental disability.

6 D. A person shall not be determined to have a developmental disability if it can be demonstrated
7 such conditions are attributable to only a physical or sensory impairment or a mental illness.

8 “Division for Intellectual and Developmental Disabilities” means the unit within the Colorado Department
9 of Health Care Policy and Financing, responsible for the administration of state sponsored services and
10 funding for developmental disabilities for the state of Colorado.

11 “Emergency”, as used in ~~S~~section 8.608.3 regarding restraint, means a serious, probable, imminent threat
12 of bodily harm to self or others where there is the present ability to ~~effect~~affect such bodily harm.

13 “Emergency Control Procedure” means an unanticipated use of a restrictive procedure or restraint in
14 order to keep the person receiving services and others safe.

15 “Executive Director” means the Executive Director of the Colorado Department of Health Care Policy and
16 Financing unless otherwise indicated.

17 “Exploitation” means an act or omission committed by a person who:

18 A. Uses deception, harassment, intimidation, or undue influence to permanently or
19 temporarily deprive a person with an intellectual or developmental disability of the use,
20 benefit, or possession of anything of value;

21 B. Employs the services of a third party for the profit or advantage of the person or another
22 person to the detriment of the person with an intellectual or developmental disability; or

23 C. Forces, compels, coerces, or entices a person with an intellectual or developmental
24 disability to perform services for the profit or advantage of the person or another person
25 against the will of the person with an intellectual or developmental disability; or

26 D. Misuses the property of a person with an intellectual or developmental disability in a
27 ~~manner~~ nger that adversely affects the person with an intellectual or developmental
28 disability’s ability to receive health care or health care benefits or to pay bills for basic
29 needs or obligations.

30 “Extreme Safety Risk to Self” means a factor in addition to specific Supports Intensity Scale (SIS) scores
31 that is considered in the calculation of a ~~e~~Client’s support level. This factor shall be identified when a
32 ~~e~~Client:

33 A. Displays self-destructiveness related to self-injury, suicide attempts or other similar behaviors that
34 seriously threaten the ~~e~~Client’s safety; and,

1 B. Has a rights suspension in accordance with ~~S~~section 8.604.3 or has a court order that imposes
 2 line of sight supervision unless the ~~C~~lient is in a controlled environment that limits the ability of
 3 the ~~e~~Client to harm himself or herself.

4 "Family", as used in rules pertaining to support services ~~and~~, the Family Support Services Program ~~and~~
 5 ~~the Colorado Family Support Loan Fund herein~~, means a group of interdependent persons residing in the
 6 same household that consists of a family member with a developmental disability or a child under the age
 7 of five (5) years with a developmental delay, and one or more of the following:

8 A. A mother, father, brother(s), sister(s) or any combination; or,

9 B. Extended blood relatives such as grandparent(s), aunt(s) or uncle(s); or,

10 C. An adoptive parent(s); or,

11 D. One or more persons to whom legal custody of a person with a developmental disability has been
 12 given by a court; or,

13 E. A spouse and/or his/her children.

14 "Family Support Council" means the local group of persons within the ~~C~~ommunity ~~C~~entered ~~B~~oard's
 15 designated service area who have the responsibility for providing guidance and direction to the
 16 ~~e~~Community ~~e~~Centered ~~b~~Board for the implementation of the Family Support Services Program.

17 "Family Support Plan (FSP)" means a plan which is written for the delivery of family support services as
 18 specified in ~~S~~section 8.613, ~~herein~~.

19 "Functional Analysis" means a comprehensive analysis of the medical, social, environmental, and
 20 personal factors that may influence current behavior. This analysis shall also investigate the person's
 21 ability to communicate, analyze whether the current behavior is a means to communicate, and identify
 22 historical factors which may contribute to the understanding of the current behavior.

23 "Guardian" means a person who has qualified as a guardian of a minor or incapacitated person pursuant
 24 to testamentary or court appointment but excludes ~~is~~ a Guardian Ad Litem (C.R.S. 15-10-201).

25 ~~"Guardian" means a person appointed by the court, or named in a will to be the guardian of a minor child,~~
 26 ~~and charged with limited, temporary, or full guardian's power and duties.~~

27 "Home and Community-Based Services Waivers (HCBS)" means HCBS waiver programs, including the
 28 Home and Community Based Waiver for the Developmentally Disabled (HCBS-DD), Supported Living
 29 Services (SLS) and Children's Extensive Support (CES). ~~These waivers are authorized by section 25.5-6-~~
 30 ~~404, C.R.S., et seq., for alternatives to long-term services and supports care for individuals with the~~
 31 ~~developmentally disabilities disabled by waivers to section 1915(c), 1902(a)(10)(B), and 1902(a)(1) of the~~
 32 ~~Social Security Act approved by the United States Department of Health and Human Services, in~~
 33 ~~accordance with section 2176 of Public Law No. 97-35 and approved for implementation by the Colorado~~
 34 ~~General Assembly, and regulated by those sections of the Medical Assistance Staff Manual Volume 8 (10~~
 35 ~~C.C.R. 2505-10) of the Colorado Department of Health Care Policy and Financing, pertaining to Long~~
 36 ~~Term Care and Home and Community-Based Services for the Developmentally Disabled.~~

1 “Host Home Provider” is an individual(s) ~~(or individuals)~~ who provides residential supports in his/her home
2 to persons receiving comprehensive services who are not family members as defined in ~~S~~section 25.5-
3 10-202(16), C.R.S. A host home provider is not a developmental disabilities service agency pursuant to
4 ~~S~~section 8.602 of these rules.

5 “Human Rights Committee” means a third-party mechanism to adequately safeguard the legal rights of
6 persons receiving services by participating in the granting of informed consent, monitoring the suspension
7 of rights of persons receiving services, monitoring behavioral development programs in which persons
8 with intellectual and developmental disabilities are involved, monitoring the use of psychotropic
9 medication by persons with intellectual and developmental disabilities, and reviewing investigations of
10 allegations of mistreatment of persons with intellectual and developmental disabilities who are receiving
11 services or supports.

12 “Individual Service and Support Plan (ISSP)” means a plan of intervention or instruction which directly
13 addresses the needs identified in the person’s Individualized Plan and which provides specific direction
14 and methodology to employees and contractors providing direct service to a person.

15 “Individualized Plan (IP)” means a written plan designed by an interdisciplinary team for the purpose of
16 identifying:

- 17 A. The needs of the person receiving services or family;
- 18 B. The specific services and supports appropriate to meet those needs;
- 19 C. The projected date for initiation of service and supports; and,
- 20 D. The anticipated results to be achieved by receiving the services and supports.

21 “Interdisciplinary Team (IDT)” means a group of people convened by a ~~C~~community ~~C~~entered ~~B~~board
22 which shall include the person receiving services, the parent or guardian of a minor, a guardian or an
23 authorized representative, as appropriate, the person who coordinates the provision of services and
24 supports, and others as determined by such person’s needs and preferences, who are assembled in a
25 cooperative manner to develop or review the individualized plan.

26 ~~“Loan Fund” means the Colorado Family Support Loan Fund.~~

27 “Mechanical Restraint” means the use of devices intended to restrict the movement or normal functioning
28 of a portion of an individual’s body. Mechanical restraint does not include the use of protective devices
29 used for the purpose of providing physical support or prevention of accidental injury.

30 ~~“Mental Retardation” means substantial limitations in present functioning. It is characterized by~~
31 ~~significantly sub-average intellectual functioning, existing concurrently with related limitations in two or~~
32 ~~more of the following applicable adaptive skill areas: communication, self-care, home living, social skills,~~
33 ~~community use, self-direction, health and safety, functional academics, leisure, and work. Mental~~
34 ~~retardation manifests before age 18.~~

35 “Minimum Effective Dose” means the smallest medication dosage necessary to produce the intended
36 effect.

1 "Mistreated" or "Mistreatment" means:

- 2 A. Abuse,
- 3 B. Caretaker Neglect,
- 4 C. Exploitation,
- 5 D. An act or omission that threatens the health, safety, or welfare of a person with
6 intellectual or developmental disability, or
- 7 E. An act or omission that exposes the person with an intellectual or developmental
8 disability to a situation or condition that poses an imminent risk of bodily injury.

9 "Notice" means written notification hand delivered to or sent by first class mail that contains at least all of
10 the following:

- 11 A. The proposed action;
- 12 B. The reason or reasons for that action;
- 13 C. The effective date of that action;
- 14 D. The specific law, regulation, or policy supporting the action;
- 15 E. The responsible agency with whom a protest of the action may be filed including the name and
16 address of the director.
- 17 F. The dispute resolution procedure, including deadlines, in conformity with Section 8.605 and
18 procedures on accessing agency records:
 - 19 1. For disputes involving individuals as defined in ~~section~~Section 8.605.2, information on
20 availability of advocacy assistance, including referral to publicly funded legal services,
21 corporation, and other publicly or privately funded advocacy organizations, including the
22 protection and advocacy system required under 42 U.S.C. ~~150016042~~, the
23 Developmental Disabilities Assistance and Bill of Rights Act; and,
 - 24 2. For disputes involving individuals as defined in ~~s~~Section 8.605.2 an explanation of how
25 the agency will provide services to a currently enrolled person during the dispute
26 resolution period, including a statement that services will not be terminated during the
27 appeal. Such explanation will include a description of services currently received.

28 "Parent" means the biological or adoptive parent.

29 "Physical Restraint" means the use of manual methods to restrict the movement or normal functioning of
30 a portion of an individual's body through direct physical contact by others except for the purpose of
31 providing assistance/prompts. Assistance/prompts is the use of manual methods to guide or assist with

1 the initiation or completion of and/or support the voluntary movement or functioning of an individual's body
2 through the use of physical contact by others except for the purpose of providing physical restraint.

3 "PRN" (Pro Re Nata) means giving drugs on an "as needed" basis through a standing prescription or
4 standing order.

5 "Program Approved Service Agency" means a developmental disabilities service agency or typical
6 community service agency as defined in Section 8.602, which has received program approval by the
7 Department pursuant to Section 8.603 of these rules.

8 "Program Services" means an organized program of therapeutic, habilitative, specialized support or
9 remedial services provided on a scheduled basis to individuals with developmental disabilities.

10 "Prospective New Service Agency" means an individual or any publicly or privately operated program,
11 organization or business that has completed and submitted an application with a eCommunity eCentered
12 Board for selection and approval as a service agency to provide comprehensive services.

13 "Public Safety Risk-Convicted" means a factor in addition to specific SIS scores that is considered in the
14 calculation of a eClient's support level. This factor shall be identified when a Celient has:

- 15 A. Been found guilty through the criminal justice system for a criminal action involving harm to
16 another person or arson and who continues to pose a current risk of repeating a similar serious
17 action; and,
- 18 B. A rights suspension in accordance with Section 8.604.3 or through parole or probation, or a
19 court order that imposes line of sight supervision unless the eClient is in a controlled environment
20 that limits his or her ability to engage in the behaviors that pose a risk or to leave the controlled
21 environment unsupervised.

22
23 "Public Safety Risk-Not Convicted" means a factor in addition to specific SIS scores that is considered in
24 the calculation of a eClient's support level. This factor shall be identified when a eClient has:

- 25 A. Not been found guilty through the criminal justice system, but who does pose a current and
26 serious risk of committing actions involving harm to another person or arson; and,
- 27 B. A rights suspension in accordance with Section 8.604.3 or through parole or probation, or a court
28 order that imposes line of sight supervision unless the eClient is in a controlled environment that
29 limits his or her ability to engage in the behaviors that pose a risk or to leave the controlled
30 environment unsupervised.

31 "Rate" means the amount of money, determined by a standardized rate setting methodology, reimbursed
32 for each unit of a defined waiver service provided to a eClient by a qualified provider.

33 "Referral" means any notice or information (written, verbal, or otherwise) presented to a Ceommunity
34 Centered Board which indicates that a person may be appropriate for services or supports provided

1 through the developmental disabilities system and for which the ~~e~~Community ~~e~~Centered ~~b~~Board
2 determines that some type of follow-up activity for eligibility is warranted.

3 “Referral and Placement Committee (RPC)” means an interdisciplinary or interagency committee
4 authorized by a ~~C~~ommunity ~~C~~entered ~~B~~oard or the department to make referral and placement
5 recommendations for persons receiving services.

6 “Regional Center” means a facility or program operated directly by the Department of Human Services,
7 which provides services and supports to persons with developmental disabilities.

8 “Respondent” means a person participating in the SIS assessment who has known the ~~C~~lient for at least
9 three months and has knowledge of the ~~C~~lient's skills and abilities. The respondent must have recently
10 observed the ~~person-C~~lient directly in one or more places such as home, work, or in the community.

11 “Restrictive Procedure” means any of the following when the intent or plan is to bring an individual's the
12 person's behavior into compliance:

13 A. Limitations of an individual's movement or activity against his or her wishes; or,

14 B. Interference with an individual's ability to acquire and/or retain rewarding items or engage in
15 valued experiences.

16 “Request for Developmental Disability Determination” means written formal documentation, either
17 handwritten or a signed standardized form, which is submitted to a Community Centered Board
18 requesting that a determination of developmental disability be completed.

19 “Safety Control Procedure” means a restrictive procedure or restraint that is used to control a previously
20 exhibited behavior which is anticipated to occur again and for which the planned method of intervention is
21 developed in order to keep the person and others safe.

22 “~~Screening~~ for Early Intervention Services” means a ~~quick-preliminary review~~ look-at of how a child is
23 developing and learning ~~to determine in comparison to other similarly situated children. what areas of~~
24 ~~development, if any, are behind what would be expected for a child.~~

25 “Seclusion” means the placement of a ~~person-C~~lient ~~receiving services~~ alone in a closed room for the
26 purpose of punishment. Seclusion for any purpose is prohibited.

27 “Service Agency” means an individual or any publicly or privately operated program, organization or
28 business providing services or supports for persons with developmental disabilities.

29 ~~“Service Plan Authorization Limit” (SPAL) means an annual upper payment limit of total funds available~~
30 ~~to purchase services to meet the client's ongoing needs. Purchase of services not subject to the SPAL~~
31 ~~are in accordance with the Department of Health Care Policy and Financing rules in section 8.500.102.B~~
32 ~~(10 C.C.R. 2505-10). A specific limit is assigned to each of the six support levels in the HCBS-SLS~~
33 ~~waiver. The SPAL is determined by the Department based on the annual appropriation for the HCBS-SLS~~
34 ~~waiver, the number of clients in each level, and projected utilization.~~

1 "Sexual contact" means the intentional knowing-touching of the victim's intimate parts by the actor, or of
2 the actor's intimate parts by the victim, or the knowing intentional touching of the clothing covering the
3 immediate area of the victim's or actor's intimate parts if that sexual contact is for the purposes of sexual
4 arousal, gratification, or abuse.

5 "Sexual intrusion" means any intrusion, however slight, by any object or any part of a person's body,
6 except the mouth, tongue, or penis, into the genital or anal opening of another person's body if that sexual
7 intrusion can reasonably be construed as being for the purposes of sexual arousal, gratification, or abuse.

8 "Sexual penetration" means sexual intercourse, cunnilingus, fellatio, anilingus, or anal intercourse.
9 Emission need not be proved as an element of any sexual penetration. Any penetration, however slight, is
10 sufficient ~~to meet this definition, complete the crime.~~

11 "SIS Interviewer" means an individual formally trained in the administration and implementation of the
12 Supports Intensity Scale by a Department approved trainer using the Department approved curriculum.
13 SIS Interviewers must maintain a standard for conducting SIS assessments as measured through
14 periodic interviewer reliability reviews.

15 "Statewide Database" means the state web-based system that contains consumer-related demographic
16 and program data.

17 "Support Coordinating Agency" means a eCommunity eCentered bBoard which has been designated as
18 the agency responsible for the coordination of support services (supported living services for adults and
19 the children's extensive support program) within its service area.

20 "Supports Intensity Scale" (SIS) means the standardized assessment tool that gathers information from a
21 semi-structured interview of respondents who know the Client well. It is design~~ed~~ated to identify and
22 measure the practical support requirements of adults with developmental disabilities. -means the
23 standardized assessment tool published in 2004 by the American Association on Intellectual and
24 Developmental Disabilities. The assessment gathers information from a semi-structured interview of
25 respondents who know the client well. It is designed to identify and measure the practical support
26 requirements of adults with developmental disabilities. No later editions or amendments are included.
27 Copies may be obtained or examined by contacting the Case Management Specialist, Colorado
28 Department of Health Care Policy and Financing, Division for Intellectual and Developmental Disabilities,
29 1570 Grant Street, Denver, Colorado 80203; or any State Publications Depository Library.

30 "Support Level" means a numeric value determined using an algorithm that places eClients into groups
31 with other eClients who have similar overall support needs.

32 "Undue Influence" means use of influence to take advantage of a person with an intellectual or
33 developmental disability's vulnerable state of mind, neediness, pain, or emotional distress.

34 "Waiver Services" means those optional Medicaid services defined in the current federally approved
35 HCBS waiver document and do not include Medicaid State Plan services.

36

37

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37

~~8.602.5 CHOICE OF SERVICE AGENCIES FOR COMPREHENSIVE SERVICES FOR AN INDIVIDUAL~~

- ~~A. Each community centered board shall develop and implement a process for the selection of service agencies for comprehensive services which considers the preferences and needs of the person who will be receiving those services and supports and/or his/her guardian, and which provides a fair opportunity to existing service agencies and prospective new service agencies.~~
- ~~1. The community centered board shall provide persons, their guardians, and authorized representative, as appropriate, information concerning all existing service agencies program approved to provide comprehensive services within the service area.~~
 - ~~2. When the person who will be receiving the services and supports or his or her guardian, as appropriate, knows which approved service agency(ies) they wish to provide the specific services or supports sought, they may choose that agency(ies) to provide the authorized services as long as the agency has the ability and is willing to provide the authorized services, and the choice is approved by the community centered board.~~
 - ~~3. If the person who will be receiving the services and supports does not have a preference for a particular agency, the community centered board shall notify all existing service agencies and prospective new service agencies about the available resource(s) and provide sufficient information for agencies to determine if they are interested in participating in a request of proposal process.~~
 - ~~4. Existing and prospective new service agencies expressing interest in providing services and supports shall be provided the following additional information in the form of a request for proposal.
 - ~~a. A profile of the person, the anticipated services and supports to be provided, the desired configuration of services and supports, and the timeframes during which services and supports would be provided.~~
 - ~~b. Instructions for submitting the proposal and the deadline for receipt of the proposal. The community centered board shall establish a reasonable timeframe between issuing the request for proposal and the deadline for receipt of proposals.~~
 - ~~c. The evaluation criteria to be used and when the community centered board intends to review the proposals.~~~~
 - ~~5. In order to allow for the development of needed services or supports in emergencies/crises, in exceptional circumstances and in situations where competition would not be fostered by the issuance of a request for proposal, the Department shall, at its discretion, have the flexibility to determine that a waiver of the request for proposal requirements specified in these rules and regulations is justified. The community centered board may also request such a waiver pursuant to section 8.600.5.G.~~

- 1 ~~6. In evaluating proposals from service agencies, the community centered board shall apply~~
2 ~~criteria in a like manner to all service agencies, including the community centered board~~
3 ~~itself. Criteria which shall be used by the community centered board for assessing the~~
4 ~~capabilities of service agencies, including the community centered board itself, if~~
5 ~~applicable to provide a specific service or support as outlined in a request for proposal~~
6 ~~shall include, but are not limited to:~~
 - 7 ~~a. Experience of the agency in providing the specific services or supports being~~
8 ~~sought;~~
 - 9 ~~b. Most recent accreditation, inspections and reviews by regulatory and licensing~~
10 ~~agencies;~~
 - 11 ~~c. Fiscal capacity of the agency to initiate and operate the specified services and~~
12 ~~supports on an ongoing basis;~~
 - 13 ~~d. The agency plan for service sites, if applicable, including appropriate location,~~
14 ~~size and appearance;~~
 - 15 ~~e. The suitability of the agency plan for providing services and supports, including~~
16 ~~the anticipated impact on the existing environment; and,~~
 - 17 ~~f. The cost associated with the plan.~~
- 18 ~~7. The rationale used by the community centered board to evaluate the proposals shall be~~
19 ~~documented and any applicant has the right, upon request, to review the community~~
20 ~~centered board's evaluation of its proposal.~~
- 21 ~~8. The community centered board shall maintain all proposals received and written~~
22 ~~documents relevant to its evaluation of these proposals for 90 days after the award, or, if~~
23 ~~there is a dispute of the award, the records shall be maintained until the dispute is~~
24 ~~resolved.~~
- 25 ~~B. Persons who will be receiving the services and supports and/or their guardian, as appropriate,~~
26 ~~shall have the opportunity to choose among the service agencies which the community centered~~
27 ~~board has determined to meet the evaluation criteria pursuant to section 8.602.5.A.6.~~
- 28 ~~C. Community centered boards shall provide persons who will be receiving the services and~~
29 ~~supports and/or their guardian, as appropriate, an opportunity to review the proposals, if so~~
30 ~~requested.~~
- 31 ~~D. The community centered board shall notify in writing all applicants if they were chosen within a~~
32 ~~reasonable timeline after the person who will be receiving the services and supports has chosen~~
33 ~~the approved service agency(ies) to provide the authorized services.~~

34

35

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

8.607 CASE MANAGEMENT SERVICES

~~A case~~Case management service for Individuals with Intellectual and Developmental Disabilities HCBS waivers shall be provided pursuant to Section 8.519.1 through 8.519.23.

8.607.1 ADMINISTRATION

- A. Community ~~e~~Centered ~~B~~boards and regional centers shall be responsible to maintain sufficient documentation of case management activities performed and to support billings.
- B. Community ~~C~~eentered ~~B~~boards shall be responsible to maintain or have access to information about public and private, state and local services, supports and resources which may be available for persons with developmental disabilities, and shall make such information available to persons eligible for services and supports and authorized persons inquiring upon their behalf.
- C. Each ~~C~~eommunity ~~C~~eentered ~~B~~board and regional center, as appropriate, shall establish agency procedures sufficient to execute case management services according to the provisions of these rules and regulations. ~~Such procedures shall include, but are not limited to:~~
- ~~1. The determination of eligibility;~~
 - ~~2. Management of the waiting list;~~
 - ~~3. The authorization and purchase of services and supports;~~
 - ~~4. Service and support coordination;~~
 - ~~5. Monitoring;~~
 - ~~6. Any safeguards necessary to prevent conflict of interest between case management and direct service provision; and,~~
 - ~~7. Termination and discharge.~~
- D. Case management services shall be a direct responsibility of the executive level of the ~~e~~Community ~~e~~Centered ~~B~~board or regional center ~~organization, and organization and~~ are separate from the delivery of services and supports unless otherwise approved by the Department.
- E. The ~~C~~eommunity ~~C~~eentered ~~B~~board or regional center shall assign one (1) primary person who ensures case management services are provided on behalf of the person receiving services across all program, professional and agency lines. Reasonable efforts shall be made by the ~~C~~eommunity ~~C~~eentered ~~b~~BBoard or regional center to include the preferences of the eligible person in this assignment.

1 ~~F. The community centered board responsible for providing ongoing case management services is~~
 2 ~~the one in whose designated service area the person receiving services resides, except when the~~
 3 ~~following conditions apply:~~

4 ~~1. If the person receiving services is reasonably expected to reside in a designated service~~
 5 ~~area for ninety (90) days or less and was previously receiving case management services~~
 6 ~~from another community centered board, the community centered board of origin shall~~
 7 ~~retain case management responsibility for the person;~~

8 ~~2. If the person receiving services is placed into a state operated program for ninety days or~~
 9 ~~fewer under short term emergency or respite care status, the community centered board~~
 10 ~~of placement origin shall retain case management responsibility for the person; or,~~

11 ~~3. For purposes of transition, if a person is receiving residential services funded by the~~
 12 ~~Colorado Department of Human Services, Division of Child Welfare Services, the person~~
 13 ~~(if over eighteen (18) years of age), parent(s) of a minor, or legal guardian, as~~
 14 ~~appropriate, shall have the option of choosing either the designated service area where~~
 15 ~~the person receiving services currently resides for continuity of service provision or the~~
 16 ~~designated service area of placement origin from the county department of social~~
 17 ~~services.~~

18 ~~4. If case management responsibility cannot be determined at the local level, then the~~
 19 ~~Department shall assign case management responsibility.~~

23 **8.607.6 MONITORING**

24 ~~Community centered boards or R~~regional centers shall be responsible to monitor the overall provision of
 25 ~~services and supports authorized by the Department. ~~(25.5-10, C.R.S).~~~~

26 A. The frequency and level of monitoring shall meet the guidelines of the program in which the
 27 person is enrolled. At a minimum, monitoring shall include the following for each person:

28 1. The delivery and quality of services and supports identified in the Individualized Plan;

29 2. The health, safety and welfare of individuals;

30 3. The satisfaction with services and choice in providers; and,

31 4. That ~~community centered board,~~ the regional center's and service agency's practices
 32 promote a person's ability to engage in self-determination, self-representation and self-
 33 advocacy.

- 1 B. A rReview of overall services and supports provided on an agency and system level shall be
 2 conducted to determine:
- 3 1. The general satisfaction of persons ~~in regards to~~ in regard to services and supports
 4 received;
 - 5 2. The general practices of service agencies regarding health, safety and welfare of persons
 6 receiving services;
 - 7 3. Fiscal compliance related to the implementation of Individualized Plans ~~for individuals;~~
 8 and,
 - 9 4. The nature and frequency of complaints regarding a service agency.

10 ~~8.607.7 DISCHARGE FROM SERVICES AND SUPPORTS~~

11 ~~A. Unless otherwise specified by the Department, a person shall be discharged from the community~~
 12 ~~centered board upon determination by the community centered board that the person no longer~~
 13 ~~meets the eligibility criteria, subject to dispute resolution procedures.~~

14 ~~B. A person receiving services shall be discharged from a service or support upon determination,~~
 15 ~~made pursuant to the individualized planning process, that the services or supports are no longer~~
 16 ~~appropriate or necessary to meet the needs of the person receiving services.~~

17 ~~C. A person receiving services may notify a service agency, verbally or in writing, that such person~~
 18 ~~no longer wishes to participate in a program, and discharge from such services or supports shall~~
 19 ~~occur within a reasonable time period.~~

20 ~~If the person receiving services is a minor, has a legal guardian, authorized representative or is~~
 21 ~~under court jurisdiction, said parties shall be notified immediately after such person notifies the~~
 22 ~~service agency of the desire to be discharged. The parent(s) of a minor, legal guardian and court~~
 23 ~~shall be provided the option to exercise their decision-making authority on behalf of the person~~
 24 ~~receiving services.~~

25 **8.607.8 MEDICAID PROGRAMS FOR PERSONS WITH DEVELOPMENTAL DISABILITIES**

26 ~~A. For persons with developmental disabilities who are enrolled in Title XIX Medicaid programs,~~
 27 ~~case management services shall be provided as required herein, and through the Colorado~~
 28 ~~Department of Health Care Policy and Financing rules for Medicaid services (10 C.C.R. 2505-10),~~
 29 ~~and the guidelines of the Department.~~

30 BA. Regional Center Referral Process

31 1 A Client may be referred to a regional center for emergency short-term placement not to
 32 exceed ninety (90) days. Such referral shall be made as specified by the Colorado
 33 Department of Human Services (CDHS) and, at minimum, shall ensure that the CMA has
 34 exhausted all reasonable alternatives in an effort to procure or provide emergency
 35 services and supports in the Client's local cCommunity.

1 2. Clients may be referred to a regional center for long-term placement as specified by the
 2 CDHS. Such procedures shall include, but are not limited to:

3 A. The CMA responsible for case management services has notified the appropriate
 4 regional center and has involved the regional center in the evaluation process; and,

5 B. The ~~case management agency~~CMA, ~~and the Client,~~ and ~~to include~~ the service
 6 planning team have reviewed and recommended placement; and,

7 C. All reasonable alternatives have been exhausted by the ~~CMA~~case management
 8 agency to procure services and supports for the client in the ~~Client's~~ local community
 9 and such efforts have been documented; and,

10 D. The Client or legal guardian is a resident of Colorado.

11 ~~Persons eligible or receiving services or supports may be referred to a regional center for~~
 12 ~~emergency short-term placement not to exceed ninety (90) days. Such referral shall be~~
 13 ~~made as specified by the Department and, at a minimum, shall ensure that the~~
 14 ~~community-centered board has exhausted all reasonable alternatives in an effort to~~
 15 ~~procure or provide emergency services and supports in the person's local community.~~

16 ~~2. Persons eligible for or receiving services or supports may be referred to a regional center~~
 17 ~~for long-term placement as specified by the Department. Such procedures shall include,~~
 18 ~~but not be limited to:~~

19 ~~a. The Community Centered Board responsible for case management services has notified~~
 20 ~~the appropriate regional center and has involved the regional center in the evaluation~~
 21 ~~process; and,~~

22 ~~b. The designated service area Community Centered Board and the person's~~
 23 ~~Interdisciplinary Team have reviewed and recommended the placement; and,~~

24 ~~c. All reasonable alternatives have been exhausted by the Community Centered Board in~~
 25 ~~an effort to procure or provide services and supports for the person in their local~~
 26 ~~community and such efforts have been documented; and,~~

27 ~~d. The person or legal guardian is a bona fide resident of Colorado.~~

28 BC. Nursing Facilities

29 For persons referred for a Preadmission Screening and Annual Resident Review (PASARR), the
 30 completion of the PASARR in accordance with the guidelines of the Department's guidelines,
 31 shall be the responsibility of the Community Centered Board in the area in which the person is
 32 physically residing, unless otherwise agreed upon by the Community Centered Boards affected.

33

34

1

2 **8.608 SERVICE AND SUPPORT PLANNING, SUPPORTING PEOPLE WITH CHALLENGING**
 3 **BEHAVIOR, AND PROTECTIONS**

4

5

6

7

8 **8.608.4 REQUIREMENTS FOR EMERGENCY AND SAFETY CONTROL PROCEDURES**

9 A. An Emergency Control Procedure is the unanticipated use of a restrictive procedure or restraint in
 10 order to keep the person receiving services and others safe.

11 1. Each Community entered board, program approved service agency, and regional
 12 center shall have written policies on the use of emergency control procedures, the types
 13 of procedures which may be used, and requirements for staff training.

14 2. Behaviors requiring emergency control procedures are those which are infrequent and
 15 unpredictable.

16 3. Emergency control procedures shall not be employed as punishment, for the
 17 convenience of staff, or as a substitute for services, supports or instruction.

18 4. Within twenty-four (24) hours after the use of an emergency control procedure, the
 19 responsible staff person shall file an incident report. The incident report shall meet all
 20 requirements of section 8.608.6.B and shall also include:

21 a. A description of the emergency control procedure employed, including beginning
 22 and ending times;

23 b. An explanation of why the procedure was judged necessary; and,

24 c. An assessment of the likelihood that the behavior that prompted the use of the
 25 emergency control procedure will recur.

26 5. Within three (3) days after use of an emergency control procedure, the eCommunity
 27 Centered Board, case management agency or regional center, parent of a minor,
 28 guardian, and authorized representative if within the scope of his or her duties, shall be
 29 notified.

30 B. Safety control procedures must be developed when it can be anticipated that there will be a need
 31 to use restrictive procedures or restraints to control a previously exhibited behavior which is likely
 32 to occur again. The use of safety control procedures shall comply with the following:

1. Each eCommunity Centered Bboard, program approved service agency, and regional center shall have written policies on the use of safety control procedures, the types of procedures which may be used, and requirements for staff training;
2. When a safety control procedure is used, the service agency shall file an incident report within three (3) days with the eCommunity eCentered bBoard, case management agency or regional center which meets all requirements of sSection 8.608.6.B and the conditions associated with each use of a safety control procedure; and,
3. If the safety control procedure is used more than three times within the previous thirty (30) days, the person's interdisciplinary team shall meet to review the situation and to endorse the current plans or to prepare other strategies.

8.608.8 ABUSE, MISTREATMENT, NEGLECT, AND EXPLOITATION

- A. Pursuant to Ssection 25.5-10-221, C.R.S., all Community Centered Bboards, case management agencies, service agencies and regional centers shall prohibit abuse, mistreatment, neglect, or exploitation of any person receiving services.
- B. Community Centered Bboards, case management agencies, program approved service agencies and regional centers shall have written policies and procedures for handling cases of alleged or suspected abuse, mistreatment, neglect, or exploitation of any person receiving services. These policies and procedures must be consistent with state law and:
 1. Definitions of abuse, mistreatment, neglect, or exploitation must be consistent with state law and these rules;
 2. Provide a mechanism for monitoring to detect instances of abuse, mistreatment, neglect, or exploitation. Monitoring is to include, at a minimum, the review of:
 - a. Incident reports;
 - b. Verbal and written reports of unusual or dramatic changes in behavior(s) of persons receiving services; and,
 - c. Verbal and written reports from persons receiving services, advocates, families, guardians, and friends of persons receiving services.

- 1 3. Provide procedures for reporting, reviewing, and investigating all allegations of abuse,
2 mistreatment, neglect, or exploitation;
- 3 4. Ensure that appropriate disciplinary actions up to and including termination, and
4 appropriate legal recourse are taken against employees and contractors who have
5 engaged in abuse, mistreatment, neglect, or exploitation;
- 6 5. Ensure that employees and contractors are made aware of applicable state law and
7 agency policies and procedures related to abuse, mistreatment, neglect or exploitation;
- 8 6. Require immediate reporting when observed by employees and contractors according to
9 agency policy and procedures and to the agency administrator or his/her designee;
- 10 7. Require reporting of allegations within 24 hours to the parent of a minor, guardian,
11 authorized representative, and ~~C~~community ~~C~~entered ~~B~~board or regional center;
- 12 8. Ensure prompt action to protect the safety of the person receiving services. Such action
13 may include any action that would protect the person(s) receiving services if determined
14 necessary and appropriate by the service agency or ~~e~~Ccommunity ~~e~~Centered ~~b~~Bboard
15 pending the outcome of the investigation. Actions may include, but are not limited to,
16 removing the person from his/her residential and/or day services setting and removing or
17 replacing staff;
- 18 9. Provide necessary victim supports;
- 19 10. Require prompt reporting of the allegation to appropriate authorities in accordance with
20 statutory requirements and pursuant to Ssection 8.608.8.C of these rules;
- 21 11. Ensure Human Rights Committee review of all allegations; and,
- 22 12. Ensure that no individual is coerced, intimidated, threatened or retaliated against
23 because the individual, in good faith, makes a report of suspected abuse, mistreatment,
24 neglect or exploitation or assists or participates in any manner in an investigation of such
25 allegations in accordance with Ssection 8.608.8.D.

26 C. Any and all actual or suspected incidents of abuse, mistreatment, neglect, or exploitation shall be
27 reported immediately to the agency administrator or designee. The agency shall ensure that
28 employees and contractors obligated by statute, including but not limited to, Ssection 19-~~140~~-103,
29 C.R.S., (Colorado Children's Code), Ssection 18-8-115, C.R.S., (Colorado Criminal Code - Duty
30 To Report A Crime), and Ssection 26-3.1-102, C.R.S., (Human~~Social~~ Services Code - Protective
31 Services), to report suspected abuse, mistreatment, neglect, or exploitation, are aware of the
32 obligation and reporting procedures.

33 D. All alleged incidents of abuse, mistreatment, neglect, or exploitation shall be thoroughly
34 investigated in a timely manner using the specified investigation procedures. However, such
35 procedures must not be used in lieu of investigations required by law or which may result from
36 action initiated pursuant to Ssection C, herein.

- 1 1. Within twenty-four hours of becoming aware of the incident, a written incident report shall
2 be made available to the agency administrator or designee and the ~~C~~community
3 ~~C~~entered ~~B~~board or regional center.
- 4 2. The agency shall maintain a written administrative record of all such investigations
5 including:
 - 6 a. The incident report and preliminary results of the investigation;
 - 7 b. A summary of the investigative procedures utilized;
 - 8 c. The full investigative finding(s);
 - 9 d. The actions taken; and,
 - 10 e. Human Rights Committee review of the investigative report and the action taken
11 on recommendations made by the committee.
- 12 3. The agency shall ensure that appropriate actions are taken when an allegation against an
13 employee or contractor is substantiated, and that the results of the investigation are
14 recorded, with the employee's or contractor's knowledge, in the employee's personnel or
15 contractor's file.

16 **8.609 PROGRAM SERVICES AND SUPPORTS**

17 **8.609.1 SUPPORT SERVICES**

18 Support services include supported living services for adults 18 years and older and the children's
19 extensive support program for children through age 17.

- 20 A. Supported Living Services for adults are intended to provide the necessary assistance and
21 support to meet the daily living and safety needs of persons who are responsible for their own
22 living arrangements in the community. Services are intended to augment available supports for
23 those individuals who can live independently with limited supports, or who, if they need extensive
24 support, are getting that support from other sources.
- 25 B. Children's extensive support services are intended to provide the services and supports to
26 children most in need because of the severity of the disability and provide for stability of the family
27 setting which would allow the child to continue to remain in the family home.
- 28 C. Medicaid funded supported living services for adults and children's extensive support services are
29 provided through the home and community based services program which is described in ~~the~~
30 ~~Colorado Department of Health Care Policy and Financing rules and regulations, Medical~~
31 ~~Assistance Staff Manual, Section 8.500, (10 C.C.R. 2505-10),~~
32 ~~and the Department's program descriptions. State funded supported living services for adults are~~
33 ~~provided pursuant to the Department's program description.~~

~~D. Each community centered board has been designated as the agency responsible for the coordination of support services within its service area. As the support coordinating agency, the community centered board is responsible for the overall administration of the program and is authorized to provide services directly and to sub-contract with other service agencies.~~

8.609.2 SUPPORT SERVICES GENERAL PROVISIONS

A. Services and supports shall be provided pursuant to the person's Individualized Plan and Individual Service and Support Plans, as appropriate.

Individual Service and Support Plans shall be developed, as needed, to ensure that services and supports are provided consistently and reach the intended results, ~~and~~ as determined by the Interdisciplinary Team.

B. Services and supports provided shall be in accordance with ~~the Department's service descriptions and the Colorado Department of Health Care Policy and Financing rules, and regulations, Medical Assistance staff manual, and sSection 8.500, (10 C.C.R. 2505-10).~~

C. Each support coordinating agency shall be responsible to ensure there is no interruption of services and supports that are critical to a person's health and safety and which if not delivered could result in imminent harm to the person.

D. Individuals, parents of a minor or guardians shall have the opportunity to choose and direct services necessary to meet their identified and prioritized needs and to choose among qualified service providers. Provision of services by family members, as defined in ~~S~~section 25.5-10-202(16), C.R.S., living in the same household (under the same roof and same physical address) with the program participant shall be on an exception basis only and in accordance with the requirements of the applicable Medicaid waiver.

E. Each support coordinating agency shall establish and implement written procedures for:

1. The assignment of resources as prescribed by the Department; and,
2. Approving expenditures for adaptations and devices as prescribed by the Department.

F. For persons receiving services who are assisted in the administration of medications by a person other than a relative, the following is required:

1. A written record of medications, including time and the amount of medication, taken by the person; ~~and,~~
2. Written orders by a licensed physician or dentist for all medications; ~~and,~~
3. Documentation of the effects of psychotropic medications and any changes in medication; and,
4. The use of medication reminder boxes ~~shall be~~ pursuant to ~~S~~section 25-1.5-303(1) C.R.S.

1 G. The support coordinating agency shall provide for the regular monitoring of the health, safety and
2 welfare of persons and the services and supports provided.

3 H. The support coordinating agency shall conduct an evaluation of consumer satisfaction no less
4 than every three (3) years. ~~Such an~~The evaluation shall, at a minimum, include satisfaction with
5 choice of services and providers.

6 I. ~~Each~~The support coordinating agency shall maintain a record for each person receiving services
7 which includes the information required by these rules ~~and regulations~~ and as prescribed by the
8 Department.

9 Staff, providers and other support personnel shall have ready access to records and information
10 required by them to carry out their responsibilities.

11

12

13

14 **8.609.5 COMPREHENSIVE HABILITATION SERVICES AND SUPPORTS DESCRIPTION AND**
15 **GENERAL PROVISIONS**

16 A. Comprehensive Habilitation Services and Supports provide a full day (24 hours) of services and
17 supports to ensure the health, safety and welfare of the individual, and to provide training and
18 habilitation services or a combination of training (i.e., instruction, skill acquisition) and supports in
19 the areas of personal, physical, mental and social development and to promote interdependence,
20 self-sufficiency and community inclusion. Services and supports are designed to meet the unique
21 needs of each person as determined by the interdisciplinary team and to provide access to and
22 participation in typical activities and functions of community life.

23 B. Program approved service agencies providing Comprehensive Habilitation Services and Supports
24 shall conform to the following provisions:

25 1. Physical facilities utilized as residential settings and/or adult day service sites shall meet
26 all applicable fire, building, licensing and health regulations.

27 2. Persons receiving Comprehensive Habilitation Services and Supports shall have 24-hour
28 supervision. Supervision may be on-site (staff is present) or accessible (agency
29 personnel is not on site but available to respond when needed). Staffing arrangements
30 must be adequate to ensure the health, safety and welfare of persons receiving services
31 and the needs of the individual as determined by the Individualized Plan.

32 3. Services and supports shall be provided pursuant to the person's Individualized Plan and
33 pertinent Individual Service and Support Plans and in accordance with Department
34 guidelines and service descriptions.

1 Individual Service and Support Plans shall be developed for all persons receiving
2 comprehensive services and meet requirements of sSection 8.608.

3 4. The program approved service agency shall provide for the regular on-site monitoring of
4 Comprehensive Habilitation Services and Supports.

5 5. Each program approved service agency providing residential services shall establish and
6 implement written policies and procedures concerning the use and handling of the
7 personal needs funds and personal possessions, including clothing, of the person
8 receiving services as prescribed by the Department.

9 6. A person receiving services shall be presumed able to manage his/her own funds and
10 possessions unless the Individualized Plan documents and justifies limitations to self
11 managementself-management, and where appropriate, reflects a plan to increase this
12 skill.

13 7. The program approved service agency shall be responsible for providing services,
14 supplies and equipment as prescribed by the Department.

15 8. Persons receiving services, guardians, authorized representatives, as appropriate, and
16 the case management agency community centered board shall be notified at least fifteen
17 (15) days prior to proposed changes in residential placements.

18 a. If an immediate move is required for the protection of the person, notification
19 shall occur as soon as possible before the move or not later than three (3) days
20 after the move.

21 b. Persons receiving services, guardians, and authorized representatives, as
22 appropriate, shall be involved in planning subsequent placements and any
23 member of the interdisciplinary team may request a meeting to discuss the
24 change in placement.

25 c. If the person receiving services, guardian, or authorized representative, as
26 appropriate, wants to contest the move they should follow the grievance
27 procedure of the agency. If they remain dissatisfied, they may ask the case
28 management agency community centered board to review the decision.

29 d. If there is a concern regarding the health, safety, or welfare of the person being
30 jeopardized as a result of the move then any interested party may request an
31 emergency order from the Department pursuant to Section 8.605.4.

32 9. Program approved service agencies shall conduct an evaluation of consumer satisfaction
33 with services and supports no less than every three (3) years.

34 10. The program approved service agency shall maintain a record for each person receiving
35 services which includes the information required by these rules and as prescribed by the
36 Department.

1 Staff, providers and other support personnel shall have ready access to records and
2 information required by them to carry out their responsibilities.

3
4
5
6 **8.611 TRANSPORTATION**

- 7
8
9 E. Prior to the use of funds for transportation acquisition services, the ~~eC~~Community ~~eC~~entered
10 ~~Board, case management agency~~ or program approved service agency shall investigate the
11 feasibility of the use of public transportation options. If public transportation options are found to
12 be inadequate or inappropriate, this shall be documented.

13
14
15
16 **8.612 SUPPORTS INTENSITY SCALE ASSESSMENT AND SUPPORT LEVELS**

17 **8.612.1 Supports Intensity Scale (SIS) Assessment [Eff. 2/1/12]**

- 18 A. Completion of a Supports Intensity Scale (SIS) Assessment is a requirement for a ~~eC~~Client to
19 participate in the Home and Community Based Services-Supported Living Services (HCBS-SLS)
20 or the Home and Community Based Services for Persons with Developmental Disabilities (HCBS-
21 DD) waiver. A ~~eC~~Client or his or her guardian refusing to have a SIS assessment shall not be
22 enrolled in the HCBS-SLS or HCBS-DD waivers.
- 23 B. Specific scores from the ~~C~~Client's SIS assessment shall be used in addition to other factors to
24 obtain the ~~C~~Client's Support Level in the HCBS-DD and HCBS-SLS waivers.
- 25 C. The ~~Case Management Agency (CMA), Community Centered Board (CCB)~~ shall conduct a SIS
26 assessment for a ~~eC~~Client at the time of enrollment. Additional assessments will be conducted at a
27 frequency determined by the Department.
- 28 D. The ~~CCBCMA~~ shall:
- 29 1. Notify the ~~eC~~Client, his or her legal guardian, authorized representative, or family member,
30 as appropriate, of the requirement for and the right to participate in the SIS assessment.

- 1 2. Support and encourage the Celient to participate in the SIS assessment. If the Celient
2 chooses not to participate in the SIS assessment, the CMA shall document his or her
3 choice in the Celient record on the Department required data system.
- 4 3. Schedule a SIS Interviewer to conduct the assessment. If the eClient, his or her legal
5 guardian, authorized representative, or family member, as appropriate, objects to the
6 assigned SIS Interviewer, he or she shall be offered a choice of a different SIS
7 Interviewer.
- 8 4. Assist the Celient or other interdisciplinary team (IDT) members to identify at least two
9 people who know the Celient well enough to act as respondents for the SIS assessment.
10 If at least two respondents cannot be identified, the CMA shall document the efforts to
11 find two respondents and the reasons this could not be ~~done, and~~ done and proceed with
12 the assessment using the information available.
- 13 E. A qualified SIS Interviewer shall conduct the assessment. A SIS Interviewer shall not act as the
14 respondent for a SIS assessment.
- 15 F. The CCB-CMA shall inform the eCClient, his or her legal guardian, authorized representative, or
16 family member, as appropriate, of the purpose of the SIS, the SIS Complaint Process, the
17 Support Level Review Process, and that he or she may receive a copy of the completed SIS
18 assessment upon request. The CCB-CMA shall document that this information was provided and
19 received on the SIS and Support Level disclosure form.
- 20 G. After the initial SIS assessment has been completed, the CMA shall conduct another SIS
21 assessment for the eCClient only when approved by the Department through the following process:
- 22 1. Prior to a subsequent SIS assessment being conducted, the CMA shall submit a request
23 to the Department for approval in the format prescribed by the Department.
- 24 2. The Department shall provide the CMA with a written decision regarding the request to
25 conduct another SIS assessment within fifteen (15) business days after the date the
26 request was received.
- 27 ~~3. Upon receiving approval to conduct a subsequent SIS the case management
28 agencyCMA shall contact the designated CCB to request a SIS reassessment.~~
- 29 ~~34. If the Celient, his or her legal guardian, authorized representative or family member, as
30 appropriate, disagrees with the decision, then a request for review of the decision may be
31 submitted to the Executive Director of the Department within fifteen (15) business days
32 after the date the decision was received. ~~by the Executive Director of the Department or
33 his or her designee.~~~~
- 34 ~~54. The Executive Director or his or her designee shall review the request for conducting
35 another SIS reassessment and provide a written decision within fifteen (15) business
36 days.~~

1 **65.** The decision of the Executive Director or his or her designee shall constitute the final
2 agency decision and will be subject to judicial review pursuant to Section 24-4-106,
3 C.R.S.

4 H. A subsequent SIS assessment shall be conducted only when approved by the Department and
5 when:

6 1. There has been a change in the eClient's life circumstances or condition resulting in a the
7 significant change to the amount of services and supports needed to keep the eClient
8 safe;

9 2. The eClient or his or her legal guardian, authorized representative, family member or
10 case manager as appropriate, has reason to believe that the results of the most recent
11 SIS assessment do not accurately reflect his or her current support needs; or,

12 3. The Department deems it necessary to complete a new assessment in order to ensure its
13 accuracy.

14 I. Administration of the SIS assessments shall be reviewed by the Department for the purpose of
15 quality assurance.

16 J. When the Department identifies SIS Interviewer practices that result in inaccurate SIS
17 assessments:

18 1. Remediation efforts may occur to ensure that the SIS Interviewer performs assessments
19 according to Department standards. The SIS Interviewer(s) who conducted the
20 inaccurate SIS assessment(s) may be deemed no longer qualified to conduct SIS
21 assessments.

22 2. Payments made for the administration of the inaccurate SIS assessments may be
23 recovered through a repayment agreement; by offsetting the amount owed against
24 current and future SIS determination payments; or, by any other appropriate action within
25 the Department's legal authority.

26 3. The eClient shall receive another SIS assessment conducted by a SIS Interviewer
27 designated by the Department.

28 4. The eClient's Support Level and Service Plan Authorization Limit will be adjusted as
29 necessary and effective on the date determined by the Department.

30
31
32 **8.612.2 SIS Complaint Process [Eff. 2/1/12]**

- 1 A. The eClient, his or her legal guardian, authorized representative, or family member as
2 appropriate, may file a complaint regarding the administration of the SIS assessment up to thirty
3 (30) calendar days after the SIS assessment is conducted.
- 4 B. The complaint shall be filed verbally or in writing with the eClient's GMA CCB. Additional
5 information to support the complaint may be submitted at that time. If the complaint has been filed
6 verbally the CMA shall document in the eClient's record on the Department required data system
7 the time, date and details surrounding the complaint.
- 8 C. When the complaint requests that another SIS assessment be completed, the CMA CCB shall
9 submit a request for approval to conduct another SIS assessment, pursuant to the process
10 identified in Section 8.612.1.G.
- 11 D. The CMA CCB shall make efforts within the CCB to resolve the complaint and provide the
12 complainant with a written response within ten (10) business days after receipt of the complaint.
- 13 E. When a resolution cannot be reached, the CMA CCB shall inform the complainant that he or she
14 may submit the complaint to the Department within fifteen (15) business days after receipt of the
15 CMA CCB response.
- 16 F. The Department shall provide a written response to the complainant within fifteen (15) business
17 days after receipt of the complaint.

18 8.612.3 Support Levels [Eff. 2/1/12]

- 19 A. A Client is assigned into one of six Support Levels according to his or her overall support needs
20 and based upon the standardized algorithm for the HCBS-DD or HCBS-SLS waivers. The SIS-A
21 Assessment converts subscale raw scores for each section into standard scores for each section,
22 which are used in the algorithm for support levels. Additional information can be found on the
23 Department's webpage or can be obtained in writing by requesting from the Department.
- 24 B. The structure of the algorithm, defined at Section 10-CCR-2505-10, 8.600.4 definitions,
25 includes the following:
- 26 1. Algorithm factors:
- 27 a. Standard scores from Section 2: Parts A (Home Living Activities), B (Community
28 Living Activities), and E (Health and Safety Activities) (ABE) from the SIS
29 assessment;
- 30 b. Total scores from Section 1A: Exceptional medial support needs score from the
31 SIS assessment;
- 32 c. Total scores from Section 1B: exceptional behavioral support needs score from
33 the SIS assessment; and,
- 34 d. Whether the eClient presents as a safety risk, defined at Section 10-CCR-2505-
35 10, 8.600.4 definitions, as follows:

- 1) In the HCBS-SLS waiver, Public Safety Risk-Convicted.
 - 2) In the HCBS-DD waiver, Public Safety Risk-Convicted/Not Convicted or Extreme Safety Risk to Self.
2. The subgroups in the algorithm table under each support level reflect variations of the intensity of the Celient's basic support, medical support and behavioral support needs; no matter which subgroup a Celient falls into, he or she is eligible for that support level. The subgroups cluster individuals with similar behavioral and medical support needs within each major group. Additional information can be found on the Department's website or can be obtained in writing by requesting from the Department.
3. Following an assessment of the factors defined above, standard scores for each factor are applied to the algorithm.
- The Support Level is determined when the scores for each factor meet all of the criteria of a support level subgroup
4. The results of the algorithm are used to assign elients to support levels one through six; with a support level one indicating a minimal need for supports and a support level six indicating a significantly higher need for supports.
5. For the HCBS-SLS wWaiver, the support level determines the Service Plan Authorization Limit (SPAL), which is defined at Section 10 CCR 2505-10, 8.600.4 definitions. The SPALs are posted annually by the Department on the Department's webpage or available in writing by contacting the Department.
- For the HCBS-DD wWaiver, the support level determines the rate of reimbursement for the provider(s).

C. The formula for the algorithm is:

Support Level/Subgroup
Support Level 1
Subgroup 1A: ABE < 25; 1A<1 AND 1B< 2
Subgroup 1B: ABE < 25; 1A< 2 AND 1B< 5
Subgroup 1C: ABE < 25; 1A<4 and 1B< 5
Support Level 2
Subgroup 2A: ABE 26-30; 1A<1 AND 1B<2
Subgroup 2B: ABE 26-30; 1A< 2 AND 1B< 5
Subgroup 2C: ABE 26-30; 1A<4 AND 1B< 5
Subgroup 1D: ABE < 25; 1A<6
Subgroup 1G: ABE < 25; 1B<9
Subgroup 2D: ABE 26-30; 1A<6
Subgroup 2G: ABE 26-30; 1B<9
Subgroup 3A: ABE 31-33; 1A< 1 AND 1B< 2
Subgroup 3B: ABE 31-33 1A< 2 AND 1B< 5

Support Level 3
Subgroup 1H: ABE < 25; 1B<13
Subgroup 2H: ABE 26-30; 1B<13
Subgroup 3C: ABE 31-33; 1A<4 AND 1B< 5
Subgroup 3D: ABE 31-33; 1A<6
Subgroup 3G: ABE 31-33; 1B<9
Subgroup 4A: ABE > 34; 1A< 1 AND 1B< 2
Subgroup 4B: ABE >34 1A< 2 AND 1B< 5
Support Level 4
Subgroup 1E: ABE < 25; 1A<8
Subgroup 1F: ABE < 25; 1A>9
Subgroup 1I: ABE < 25; 1B<15
Subgroup 1J: ABE < 25; 1B>16
Subgroup 2E: ABE 26-30; 1A<8
Subgroup 2I: ABE 26-30; 1B<15
Subgroup 2J: ABE 26-30; 1B>16
Subgroup 3E: ABE 31-33; 1A<8
Subgroup 3H: ABE 31-33; 1B<13
Subgroup 4C: ABE > 34; 1A<4 AND 1B< 5
Subgroup 4G: ABE > 34; 1B<9
Support Level 5
Subgroup 2F: ABE 26-30; 1A>9
Subgroup 3I: ABE 31-33; 1B<15
Subgroup 3J: ABE 31-33; 1B>16
Subgroup 4D: ABE >34; 1A<6
Subgroup 4E: ABE > 34; 1A<8
Subgroup 4H: ABE > 34; 1B<13
Subgroup 4I: ABE > 34; 1B<15
Group 5A: Community Safety (either status) AND 1b<11
Support Level 6
Subgroup 4J: ABE > 34; 1B>16
Group 6A: Community Safety (either status) AND 1b>12
Subgroup 3F: ABE 31-33; 1A>9
Subgroup 4F: ABE > 34; 1A>9
Level 7
Group 7: Individuals with Tier 7 Rates

Extreme Safety Risk to Self (as defined ~~at at Section 40 CCR 2505-10,~~ 8.600.4 definitions) -This factor acts to increase the level otherwise determined by the above criteria. Level 1 increases to level 3, level 2 increases to level 4, level 3 increases to level 4, level 4 increases to level 5. No change to levels 5 or 6, as this factor is already considered in the algorithm.

Public Safety Risk (as defined at ~~Section 10 CCR 2505-10,~~ 8.600.4 definitions) – this factor acts to increase the level otherwise determined by the above criteria. Level 1 increases to level 5, level 2 increases to level 5, level 3 increases to level 5, and level 4 increases to level 6. No change to levels 5 or 6 as this factor is already considered in the algorithm.

- 1 D. The CMA ~~in conjunction with the IDT~~ shall make a determination whether a Client meets the
 2 definition of Public Safety Risk or Extreme Safety Risk to Self through the following process:
- 3 1. The decision shall be made by a case management supervisor ~~meeting the qualifications~~
 4 ~~of a Developmental Disabilities Professional as defined in section 8.600.4.~~ He or she
 5 shall:
- 6 a. Document the rationale to support the decision which shall be kept in the
 7 Client's record;
- 8 b. Document that the eClient meets the definition in the Department required data
 9 system; and,
- 10 c. Review the eClient at least annually or when significant changes occur to assure
 11 that the Client continues to meet the definition.
- 12 2. At the point when a Client no longer meets the definition, his or her status must be
 13 changed in the Department-required data system and his or her Support Level must be
 14 re-calculated.
- 15 E. The CMA shall inform each eClient, his or her legal guardian, authorized representative, or family
 16 member, as appropriate, of his or her Support Level at the time of the Service Plan development
 17 or when the Support Level changes for any reason.
- 18 F. Notification of a Support Level change shall occur within ten (10) business days of the date after
 19 the Service Plan development or Support Level change.
- 20 G. Each Support Level corresponds with the standardized reimbursement rates for individual waiver
 21 services and the Service Plan Authorization Limits (SPAL) in HCBS-SLS.

- 1 H. In HCBS-DD, the Department may assign a reimbursement rate for day habilitation services and
 2 residential habilitation services provided to a Client with exceptional overall needs in accordance
 3 with the Support Level Review Process.

7 8.760 TARGETED CASE MANAGEMENT SERVICES

8 8.760.1 DEFINITIONS

9 .10 “Case Management Agency” (CMA) means a public or private not-for-profit or for-profit agency
 10 that meets all applicable state and federal requirements and is certified by the Department to
 11 provide case management service for Home and Community Based waivers pursuant to Sections
 12 25.5-10-209.5, C.R.S. and CRS 25.5-6-106, C.R.S. and pursuant to a provider participation
 13 agreement with the state department.

14 .11 “Child with a developmental delay” means: a person less than five years of age with delayed
 15 development or who is at risk of having a developmental disability, ~~as set forth at 2-CCR-503-4~~
 16 ~~Section 16.120, or as amended.~~

17 .12 Community Centered Board means a private corporation, for-profit or not-for-profit that is
 18 designated pursuant to Section 25.5-10-209, C.R.S., responsible for, but not limited to conducting
 19 Developmental Disability determinations, waiting list management Level of Care Evaluations for
 20 Home and Community Based Service waivers specific to individuals with intellectual and
 21 developmental disabilities, and management of State Funded programs for individuals with
 22 intellectual and developmental disabilities.

23 ~~“Community Centered Board” means a private corporation, for profit or not for profit, which, when~~
 24 ~~designated pursuant to C.R.S. 27-10.5-105, as amended, is authorized to determine eligibility of~~
 25 ~~persons with developmental disabilities within a specific geographic catchment area for services~~
 26 ~~authorized under C.R.S. 27-10.5, as amended, provide case management services to such~~
 27 ~~persons, and provide authorized services to such persons either directly or by purchasing such~~
 28 ~~services from local service agencies.~~

- 29 a. Persons receiving targeted case management services may not be restricted from
 30 requesting, on a statewide basis, which ~~e~~Community ~~e~~Centered ~~b~~Board or Case
 31 Management Agency will provide them with targeted case management services.

32 .13 “Developmental disability” means a disability that is manifested before the person reaches
 33 twenty-two years of age; which constitutes a substantial disability to the affected individual; and is
 34 attributable to ~~mental retardation~~ a developmental delay or intellectual disability or related
 35 conditions which include cerebral palsy, epilepsy, autism, or other neurological conditions when
 36 such conditions result in impairment of general intellectual functioning or adaptive behavior
 37 similar to that of a person with intellectual disability ~~mental retardation and as set forth in 2-CCR~~

~~503-1 Section 16.120, or as amended.~~ Unless otherwise specifically stated, the federal definition of “developmental disability” found in 42 U.S.C. sec. ~~150026000~~, et seq., shall not apply.

8.761 TARGETED CASE MANAGEMENT SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

.14 Targeted Case Management services for ~~P~~ersons with ~~D~~evelopmental ~~D~~isabilities consists of facilitating enrollment; locating, coordinating, and monitoring needed developmental disabilities services; and coordinating with other non-developmental disabilities funded services, such as medical, social, educational, and other services to ensure non-duplication of services and monitor the effective and efficient provision of services across multiple funding sources. Targeted case management services includes the following activities:

a. Comprehensive assessment and periodic reassessment of individual needs to determine the need for any medical, educational, social or other services and completed annually or when the ~~e~~Client experiences significant change in need or in level of support. These assessment activities include:

1. ~~T~~aking ~~e~~Client history; ~~and~~
2. ~~I~~dentifying the ~~C~~lient's needs, completing related documentation, and gathering information from other sources such as family members, medical providers, social workers, and educators as necessary, to form a complete assessment of the ~~C~~lient.

b. Development and periodic revision of a specific care plan that:

1. ~~I~~s based on the information collected through the assessment;
2. ~~S~~pecifies the goals and actions to address the medical, social, educational, and other services needed by the ~~C~~lient;
3. ~~I~~ncludes activities such as ensuring the active participation of the ~~C~~lient, and working with the ~~C~~lient (or the ~~e~~Client representative as defined in ~~40-CCR 2505-10~~ Section 8.500.1) and others to develop those goals; and
4. ~~I~~dentifies a course of action to respond to the assessed needs of the ~~e~~Client.

c. Referral and related activities to help a ~~C~~lient obtain needed services including activities that help link a ~~e~~Client with:

1. ~~M~~edical, social, educational providers; or
2. ~~O~~ther programs and services including, ~~r~~ making referrals to providers for needed services and scheduling appointments, as needed.

- 1 d. Monitoring and follow-up includes activities that are necessary to ensure the care plan is
 2 implemented and adequately addresses the ~~eligible individual's~~ Client's needs.
 3 Monitoring and follow up actions shall:
- 4 1. ~~B~~be performed when necessary to address health and safety and services in the
 5 care plan;
 - 6 2. ~~I~~include activities to ensure:
 - 7 A. ~~S~~services are being furnished in accordance with the ~~e~~Client's care plan;
 - 8 B. ~~S~~services in the care plan are adequate; and
 - 9 C. ~~N~~ecessary adjustments in the care plan and service arrangements with
 10 providers are made if the needs of the Client have changed;
 - 11 3. ~~I~~include direct contact and observation with the Client in a place where services
 12 are delivered to a ~~e~~Client in accordance with the following frequency:
 - 13 A. Face to face monitoring shall be completed for a ~~e~~Client enrolled in
 14 HCBS-DD at least once per quarter;
 - 15 B. Face to face monitoring shall be completed for a Client enrolled in
 16 HCBS-SLS at least once per quarter;
 - 17 C. Face to face monitoring shall be completed for a ~~e~~Client in HCBS-CES at
 18 least once per quarter; ~~and, or~~
 - 19 D. Face to face monitoring shall be completed at least once ~~every per~~ six
 20 months ~~s-period~~ for children in Early Intervention Services.

21 .15 All case documentation must be entered into the Department's IMS within five (5) business days
 22 of case activity from the date of activity.

23 8.761.2 DETERMINATION OF CLIENT ELIGIBILITY

- 24 .21 To receive targeted case management services individuals must meet the following criteria:
- 25 a. ~~B~~be determined ~~to be~~ eligible for Medicaid by the County Department of Social/Human
 26 Services in the county in which the person resides;
 - 27 b. ~~B~~be determined by the designated Community Centered Board to have a developmental
 28 disability or developmental delay; and
 - 29 c. ~~B~~be actively enrolled in one of the following programs :
 - 30 1. Home and Community Based Services for Persons with Developmental
 31 Disabilities waiver;

- 1 2. Home and Community Based Services - Supported Living Services waiver;
- 2 3. Home and Community Based Services- Children's Habilitation Residential
- 3 Program
- 4 3. Home and Community Based Services - Children's Extensive Support waiver; or
- 5 4. Early Intervention Services.

6 .22 The specific programs listed in Section 8.761.21 (c)(1) through (4) are the only programs which
7 are eligible for targeted case management services.

8 **8.761.3 PROVIDER ELIGIBILITY**

9 .31 Only certified Early Intervention Services designated Community Centered Boards may be
10 reimbursed for targeted case management services for persons enrolled in Early Intervention
11 Services pursuant to 12 CCR 2509-10-7.913 with developmental disabilities.

12 .32 Only case management agencies certified by the Department pursuant to Section 8.519 through
13 8.519.23 may provide case management for persons enrolled in the Home and Community
14 Based Services outlined in Section 8.503 Home and Community Based Services for Children's
15 Extensive Support (HCBS-CES) Waiver, 8.500 Home and Community Based Services for the
16 Developmentally Disabled (HCBS-DD) Waiver, and 8.500.90 Home and Community Based
17 Services for Supported Living Services (HCBS-SLS) Waiver et seq.

18 **8.761.4 REIMBURSEMENT**

19 .41 Claims are reimbursable only when supported by the following documentation:

- 20 a. The name of the Client;
- 21 b. The date of the activity;
- 22 c. The nature of the activity including whether it is direct or indirect contact with the Client;
- 23 d. The content of the activity including the relevant observations, assessments, findings;
- 24 e. Outcomes achieved, and as appropriate, follow up action; ~~and~~
- 25 f. The total number of units associated with the activity; ~~and~~
- 26 g. For HCBS waiver programss, documentation required under ~~comply with requirements~~
27 set forth at Sections 8.519 and 8.760.

28 .42 TCM providers shall record ~~put~~ what documentation exists in the in-log notes and enter it into the
29 state data system as required by the Department.

1 .43 Claims for travel time to and from a ~~TCMargeted Case Management~~ activity are reimbursable at
2 the same unit rate as ~~TCMtargeted case management~~ services. The time claimed for travel shall
3 be documented separately from the time claimed for the ~~TCMtargeted case management~~ activity.

4 .44 Reimbursement rates shall be published prior to their effective date in accordance with Federal
5 requirements at 42 C.F.R. ~~§ 447.205, and 447.205 and~~ shall be based upon a market-based rate
6 with a unit of service equal to fifteen (15) minutes according to the State's approved fee schedule.

7 .45 ~~TCMargeted case management~~ services may not be claimed prior to the first day of enrollment
8 into an eligible program nor prior to the actual date of eligibility for Medicaid benefits.

9 .46 ~~TCMargeted Case Management~~ is limited to 60 units per ~~eClient~~ for State Fiscal Year 2011-12
10 (April 1 to June 30, 2012). Thereafter, ~~TCMargeted Case Management~~ is limited to 240 units per
11 ~~eClient~~ per state fiscal year. ~~This limitation is in effect upon approval from the Centers for~~
12 ~~Medicare and Medicaid Services (CMS).~~

13
14
15
16
17
18
19
20

