

## **8.510 CONSUMER DIRECTED ATTENDANT SUPPORT SERVICES**

### **8.510.1 DEFINITIONS**

- A. Adaptive Equipment means a device(s) that is used to assist with completing activities of daily living.
- B. Allocation means the funds determined by the case manager in collaboration with the client and made available by the Department through the Financial Management Service (FMS) for attendant support services available in the Consumer Directed Attendant Support Services (CDASS) option.
- C. Assessment means a comprehensive evaluation with the client seeking services and appropriate collaterals (such as family members, advocates, friends and/or caregivers) conducted by the case manager, with supporting diagnostic information from the client's medical provider to determine the client's level of functioning, service needs, available resources, and potential funding resources. Case managers shall use the Department prescribed tool to complete assessments.
- D. Attendant means the individual who meets qualifications in 10 CCR 2505-10, § 8.510.8 who provides CDASS as determined by 10 CCR 2505-10, § 8.510.3 and is hired by the participant or authorized representative through the contracted FMS vendor.
- E. Attendant Support Management Plan (ASMP) means the documented plan at 10 CCR 2505-10, § 8.510.5 outlining management of attendant support needs through CDASS.
- F. Authorized Representative (AR) means an individual designated by the client or the legal guardian, if applicable, who has the judgment and ability to direct CDASS on a client's behalf and meets the qualifications as defined at 10 CCR 2505-10, § 8.510.6 and § 8.510.7.
- G. 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 and CRS 25.5-6- 106, C.R.S. , and pursuant to a provider participation agreement with the state department.
- H. Case Manager means an individual employed by a Case Management Agency who is qualified to perform the following case management activities: determination of an individual client's functional eligibility for the Home and Community Based Services (HCBS) waivers, development and implementation of an individualized and person-centered care plan for the client, coordination and monitoring of HCBS waiver services delivery, evaluation of service effectiveness, and the periodic reassessment of such client's needs.
- I. Consumer Directed Attendant Support Services (CDASS) means the service delivery option for services that assist an individual in accomplishing activities of daily living when

included as a waiver benefit that may include health maintenance, personal care, and homemaker activities.

- J. CDASS Certification Period Allocation means the funds determined by the case manager and made available by the Department for attendant services for the date span the client is approved to receive CDASS within the annual certification period.
- K. CDASS Training means the required training, including a final, comprehensive assessment, provided by the Training and Operations Vendor to a client or authorized representative who is interested in CDASS.
- L. Cost Containment means the cost of providing care in the community is less than or equal to the cost of providing care in an institutional setting based on the average aggregate amount. The cost of providing care in the community shall include the cost of providing Home and Community Based Services.
- M. Department means the Colorado Department of Health Care Policy and Financing, the Single State Medicaid Agency.
- N. Family Member means any person related to the client by virtue of blood, marriage, adoption, or common law.
- O. Financial Eligibility means the eligibility criteria for a publicly funded program, based on the individual's financial circumstances, including income and resources.
- P. Financial Management Services (FMS) means an entity contracted with the Department and chosen by the client/authorized representative to complete employment related functions for CDASS attendants and track and report on individual client allocations for CDASS.
- Q. Fiscal/Employer Agent (F/EA) is the FMS model utilized in Colorado where the FMS is an agent of the client as the employer. The client or their selected authorized representative is the common law employer of workers hired, trained and managed by the client or representative. The F/EA pays workers and maintains workers compensation policies on the client's behalf. The F/EA withholds, calculates, deposits and files withheld Federal Income Tax and both employer and employee Social Security and Medicare Taxes.
- R. Functional Eligibility means an individual meets functional criteria for a Health First Colorado Medicaid waiver program as determined by the Department.
- S. Home and Community Based Services (HCBS) means a variety of supportive services delivered in conjunction with Colorado Medicaid Waivers to clients in community settings. These services are designed to help older persons and persons with disabilities remain living in a home of their choice.
- T. Inappropriate Behavior means offensive behavior toward attendants, case managers, the Training and Operations Vendor or the FMS, and which includes: documented verbal, sexual and/or physical abuse. Verbal abuse may include threats, insults or offensive language over a period of time.

- U. Licensed Medical Professional means the primary care provider of the client who possess one of the following medical licenses: Physician (MD/DO), Physician Assistant (PA) and Advanced Practicing Nurse (APN) as governed by the Colorado Medical Practice Act and the Colorado Nurse Practice Act.
- V. Prior Authorization Request (PAR) means the Department prescribed format used to authorize HCBS waiver services.
- W. Notification means the routine methods in which the Department or its designee conveys information about CDASS. Methods include but are not limited to the Departments CDASS web site, client account statements, case manager contact, or FMS contact.
- X. Stable Health means a medically predictable progression or variation of disability or illness.
- Y. Training and Operations Vendor means the organization contracted by the Department to provide training and customer service for self-directed service delivery options to clients, authorized representatives and case managers.

## **8.510.2 ELIGIBILITY**

- 8.510.2.A. To be eligible for the CDASS delivery option, the following shall be met by the client:
1. Choose the CDASS delivery option.
  2. Be functionally and financially eligible for an HCBS waiver with the CDASS delivery option.
  3. Demonstrate a current need for allowable attendant support services.
  4. Document a pattern of stable health that necessitates a predictable pattern of attendant support and appropriateness of CDASS.
  5. Provide a statement, at interval determined by the Department, from the primary care physician, physician assistant, or advanced practice nurse attesting to the client's ability to direct their care with sound judgment or a required AR with the ability to direct the care on the client's behalf.
  6. Complete all aspects of the ASMP and training and demonstrate the ability to direct care or have care directed by an AR.
    - a. Client training obligations
      - i. Client's and AR's who have received training through the training and operations vendor in the past two years and have utilized CDASS in the previous six months may receive a modified training to restart CDASS following an episode of closure. The case manager will review the allocation and

attendant management for the client's previous service utilization and consult with the Department to determine whether full retraining is required, or an abbreviated training based on history of managing allocation and services is needed.

ii. A client who was closed from CDASS due to a Medicaid financial eligibility denial that has been resolved may resume CDASS without attending training if they had received CDASS in the previous six months.

### **8.510.3 ALLOWABLE SERVICES**

8.510.3.A. Covered services shall be for the benefit of only the client and not for the benefit of other persons.

8.510.3.B. Services include:

1. Homemaker: General household activities provided by an attendant in a client's home to maintain a healthy and safe environment for the client. Homemaker activities shall be applied only to the primary living space of the client and multiple attendants may not be reimbursed for duplicating household tasks. Tasks may include the following activities or teaching the following activities:
  - a. Routine light housekeeping such as: dusting, vacuuming, mopping, and cleaning bathroom and kitchen areas
  - b. Meal preparation
  - c. Dishwashing
  - d. Bed making
  - e. Laundry
  - f. Shopping for necessary items to meet basic household needs
2. Personal care: Services furnished to an eligible client in the community or in the client's home to meet the client's physical, maintenance, and supportive needs. Including:
  - a. Eating/feeding which includes assistance with eating by mouth using common eating utensils such as forks, knives, and straws
  - b. Respiratory assistance with cleaning or changing oxygen equipment tubes, filling the distilled water reservoir, and moving the cannula or mask from the client's face

- c. Skin care preventative in nature when skin is unbroken; including the application of non-medicated/non-prescription lotions and/or sprays and solutions, and monitoring of skin changes.
- d. Bladder/Bowel Care:
  - i) Assisting client to and from the bathroom
  - ii) Assistance with bed pans, urinals, and commodes
  - iii) Changing of incontinence clothing or pads
  - iv) Emptying Foley or suprapubic catheter bags only if there is no disruption of the closed system
  - v) Emptying ostomy bags
  - vi) Peri care
- e. Personal hygiene:
  - i) Bathing including washing, shampooing
  - ii) Grooming
  - iii) Shaving with an electric or safety razor
  - iv) Combing and styling of hair
  - v) Filing and soaking of nails
  - vi) Basic oral hygiene and denture care
- f. Dressing assistance with ordinary clothing and the application of non-prescription support stockings, braces and splits; or the application of artificial limbs when the client is able to assist or direct
- g. Transferring a client when the client has sufficient balance and strength to reliably stand and pivot and assist with the transfer to some extent. Adaptive and safety equipment may be used in transfers, provided that the client and attendant are fully trained in the use of the equipment and the client can direct and assist with the transfer
- h. Mobility when the client has the ability to reliably balance and bear weight or when the client is independent with an assistive device
- i. Positioning when the client is able to verbally or non-verbally identify when the position needs to be changed including simple alignment in a bed, wheelchair or other furniture

- j. Medication Reminders when the medications have been preselected by the client, a family member, a nurse or a pharmacist and are stored in containers other than the prescription bottles, such as medication minders and:
    - i) Medication minders must be clearly marked as to the day and time of dosage and must be kept in a way as to prevent tampering
    - ii) Medication reminding includes only inquiries as to whether medications were taken, verbal prompting to take medications, handing the appropriately marked medication minder container to the client and opening the appropriately marked medication minder if the client is unable
  - k. Cleaning and basic maintenance of durable medical equipment
  - l. Protective oversight when the client requires supervision to prevent or mitigate disability related behaviors that may result in imminent harm to people or property
  - m. Accompanying includes going with the client, as necessary on the care plan, to medical appointments, and errands such as banking and household shopping. Accompanying the client to provide one or more personal care services as needed during the trip. Attendant may assist with communication, documentation, verbal prompting and/or hands on assistance when the task cannot be completed without the support of the attendant. Companionship is not a benefit of CDASS
3. Health Maintenance Activities. Routine and repetitive health related tasks furnished to an eligible client in the community or in the client's home, which are necessary for health and normal bodily functioning that a person with a disability is unable to physically carry out. Services may include:
- a. Skin care provided when the skin is broken or a chronic skin condition is active and could potentially cause infection, and the client is unable to apply product independently due to illness, injury or disability. May include: wound care, dressing changes, application of prescription medicine, and foot care for people with diabetes when directed by a licensed medical professional
  - b. Nail care in the presence of medical conditions that may involve peripheral circulatory problems or loss of sensation; includes soaking, filing and trimming
  - c. Mouth care performed when health maintenance level skin care is required in conjunction with the task, or:
    - i) There is injury or disease of the face, mouth, head or neck;

- ii) In the presence of communicable disease;
  - iii) When the client is unable to participate in the task;
  - iv) Oral suctioning is required
- d. Dressing performed when health maintenance level skin care or transfers are required in conjunction with the dressing, or:
- i) The client is unable to assist or direct care;
  - ii) Assistance with the application of prescribed anti-embolic or pressure stockings is required;
  - iii) Assistance with the application of prescribed orthopedic devices such as splints, braces, or artificial limbs is required
- e. Feeding is considered a health maintenance task when the client requires health maintenance level skin care or dressing in conjunction with the task, or:
- i) Oral suctioning is needed on a stand-by or intermittent basis;
  - ii) The client is on a prescribed modified texture diet;
  - iii) The client has a physiological or neurogenic chewing or swallowing problem;
  - iv) Syringe feeding or feeding using adaptive utensils is required;
  - v) Oral feeding when the client is unable to communicate verbally, non-verbally or through other means
- f. Exercise prescribed by a licensed medical professional including passive range of motion
- g. Transferring a client when they are not able to perform transfers independently due to fragility of illness, injury or disability, or:
- i) the client lacks the strength and stability to stand, maintain balance or bear weight reliably;
  - ii) the client has not been deemed independent with adaptive equipment or assistive devices by a licensed medical professional;
  - iii) the use of a mechanical lift is needed

- h. Bowel care performed when health maintenance level skin care or transfers are required in conjunction with the bowel care, or:
  - i) The client is unable to assist or direct care;
  - ii) Administration of a bowel program including but not limited to 8 digital stimulation, enemas, or suppositories;
  - iii) Care of a colostomy or ileostomy that includes emptying and changing the ostomy bag and application of prescribed skin care products at the site of the ostomy
- i. Bladder care performed when health maintenance level skin care or transfers are required in conjunction with the bladder care, or;
  - i) The client is unable to assist or direct care;
  - ii) Care of external, indwelling and suprapubic catheters;
  - iii) Changing from a leg to a bed bag and cleaning of tubing and bags as well as perineal care
- j. Medical management as directed by a Licensed Medical Professional to routinely monitor a documented health condition, including but not limited to: blood pressures, pulses, respiratory rate, blood sugars, oxygen saturations, intravenous, or intramuscular injections
- k. Respiratory care:
  - i) Postural drainage
  - ii) Cupping
  - iii) Adjusting oxygen flow within established parameters
  - iv) Suctioning of mouth and nose
  - v) Nebulizers
  - vi) Ventilator and tracheostomy care
  - vii) Respiratory equipment
- l. Bathing assistance is considered a health maintenance task when the client is unable to assist or direct care; or health maintenance level skin care, transfers or dressing are required in conjunction with bathing
- m. Medication Assistance may include setup, handling and administering medications



- n. Accompanying includes going with the client, as necessary on the care plan, to medical appointments, and errands such as banking and household shopping. Accompanying the client to provide one or more health maintenance tasks as needed during the trip. Attendant may assist with communication, documentation, verbal prompting and/or hands on assistance when the task cannot be completed without the support of the attendant. Does not include companionship.
  - o. Mobility is considered a health maintenance task when health maintenance level skin care or transfers are required in conjunction with the mobility, or:
    - i) the client is unable to assist or direct care;
    - ii) when hands on assistance is required for safe ambulation and the client is unable to maintain balance or to bear weight reliably due to illness, injury, or disability, or
    - iii) the client has not been deemed independent with adaptive equipment or assistive devices ordered by a qualified licensed medical professional
4. Services that may be Participant-Directed under the Home and Community Based Supported Living Services (HCBS-SLS) waiver are as follows:
- a. Homemaker as defined at section 10 CCR 2505-10 §8.500.94. A.6.
  - b. Personal care as defined at section 10 CCR 2505-10 §8.500.94. A.10
  - c. Health Maintenance activities as defined at section 10 CCR 2505-10 §8.500.94.A.17

#### **8.510.4 SERVICE LIMITATION**

- 8.510.4.A. CDASS attendants are not authorized to perform services:
- 1. While client is admitted to a Nursing Facility, Hospital, a Long-Term Care facility or Incarcerated.
  - 2. Following death of client.
  - 3. That are duplicative or overlapping. The attendant cannot be reimbursed to perform tasks at the time a client is concurrently receiving a waiver service in which the provider is required to perform the tasks in conjunction with the service being rendered.

#### **8.510.5 ATTENDANT SUPPORT MANAGEMENT PLAN**

8.510.5.A. The client/AR shall develop a written ASMP after completion of training but prior to the start date of services which shall be reviewed by the Training and Operations Vendor and approved by the case manager. CDASS shall not begin until the case manager approves the plan and provides a start date to the FMS. The ASMP is required following initial training, retraining and shall be modified when there is a change in the client's needs. The plan shall describe the clients:

1. Needed attendant support.
2. Plans for locating and hiring attendants.
3. Plans for handling emergencies.
4. Assurances and plans regarding direction of CDASS Services, as described at 10 CCR 2505 -10, § 8.510.3 and § 8.510.6 if applicable.
5. Plans for management of the budget within the client's monthly allocation.
6. Designation of an AR, if applicable.
7. Designation of regular and back-up employees proposed or approved for hire.

8.510.5.B. If ASMP is disapproved by the case manager, the client or AR has the right to review that disapproval. The client or AR shall submit a written request to the CMA stating the reason for the review and justification of the proposed ASMP. The client's most recently approved ASMP shall remain in effect while the review is in process.

#### **8.510.6 CLIENT/AR RESPONSIBILITES**

8.510.6.A. Client/AR responsibilities for CDASS Management:

1. Complete training provided by the Training and Operations Vendor; clients who cannot complete training shall designate an AR.
2. Develop an ASMP at initial enrollment and at time of an allocation change based on the client's needs.
3. Determine wages for each attendant not to exceed the rate established by the Department. Wages shall be established in accordance with Colorado Department of Labor and Employment standards including, but not limited to, minimum wage and overtime requirements. Attendant wages may not be below the state and federal requirements where the service is provided.
4. Determine the required qualifications for attendants.
5. Recruit, hire and manage attendants.
6. Complete previous employment reference checks on attendants.

7. Train attendants to meet the client's needs.
  - a. When necessary to obtain the goals of the ASMP, the client/AR shall verify that each attendant has been or will be trained in all necessary health maintenance activities prior to performance by the attendant.
8. Terminate attendants when necessary including when attendant is not meeting the client's needs.
9. Operate as the legal employer of record of the attendant.
10. Complete necessary employment related functions through the FMS vendor, including hiring and termination of attendants and employer related paperwork necessary to obtain an employer tax ID.
11. Ensuring all attendant employment documents have been completed and accepted by the FMS prior to beginning services.
12. Follow all relevant laws and regulations applicable to the supervision of attendants.
13. Explain the role of the FMS to the attendant.
14. Budget for attendant care within the established monthly and CDASS certification period allocation.
  - a. Services that exceed the clients monthly CDASS allocation by 30% or higher are not allowed and cannot be authorized by the client or AR for reimbursement through the FMS.
15. Authorize attendant to perform services allowed through CDASS.
16. Review all attendant timesheets and statements for accuracy of time worked, completeness, and client/AR and attendant signatures. Timesheets shall reflect actual time spent providing CDASS.
17. Review and submit approved attendant timesheets to the FMS by the established timelines for attendant reimbursement.
18. Authorize the FMS to make any changes in the attendant wages.
19. Understand that misrepresentation or false statements may result in administrative penalties, criminal prosecution, and/or termination from CDASS. Client/AR is responsible for assuring timesheets submitted are not altered in any way and that any misrepresentations are immediately reported to the FMS.
20. Completing and managing all paperwork and maintaining employment records.
21. Select an FMS vendor upon enrollment into CDASS.

- 8.510.6.B. Client/AR responsibilities for Verification:
1. Sign and return a responsibilities acknowledgement form for activities listed in 10 CCR 2505-10, §8.510.6 to the case manager.

8.510.6.C. Clients utilizing CDASS have the following Rights:

1. Right to receive instruction on managing CDASS.
2. Right to receive program materials in accessible format.
3. Right to receive advance notification of changes to CDASS.
4. Right to participate in Department sponsored opportunities for input.
5. Clients using CDASS have the right to transition to alternative service delivery options at any time. The case manager shall coordinate the transition and referral process.
6. A client/AR may request a reassessment if the client's level of service needs have changed.
7. A client/AR may revise the ASMP at any time with case manager approval.

#### **8.510.7 AUTHORIZED REPRESENTATIVES (AR)**

8.510.7.A. A person who has been designated as an AR shall submit an AR designation affidavit attesting to:

1. Being at least eighteen years of age;
2. Has known the eligible person for at least two years;
3. Has not been convicted of any crime involving exploitation, abuse, or assault on another person; and
4. Does not have a mental, emotional, or physical condition that could result in harm to the client.

8.510.7.B. CDASS clients who require an AR may not serve as an AR for another CDASS client.

8.510.7.C. An AR shall not receive reimbursement from Health First Colorado Medicaid for AR services and shall not be reimbursed as an attendant for the client they represent.

8.510.7.D. An AR must comply with all requirements located at 10 CCR 2505-10, § 8.510.6.

#### **8.510.8 ATTENDANTS**

- 8.510.8.A. Attendants shall be at least 18 years of age and demonstrate competency in caring for the client to the satisfaction of the client/AR.
- 8.510.8.B. Attendants may not be reimbursed for more than 24 hours of CDASS service in one day for one or more clients collectively.
- 8.510.8.C. An AR shall not be employed as an attendant for the same client they are an AR for.
- 8.510.8.D. Attendants must be able to perform the tasks on the service plan they are being reimbursed for and the client must have adequate attendants to assure compliance with all tasks on the service plan.
- 8.510.8.E. Attendant timesheets submitted for approval must be accurate and reflect time worked.
- 8.510.8.F. Attendants shall not misrepresent themselves to the public as a licensed nurse, a certified nurse's aide, a licensed practical or professional nurse, a registered nurse or a registered professional nurse.
- 8.510.8.G. Attendants shall not have had his or her license as a nurse or certification as a nurse aide suspended or revoked or his application for such license or certification denied.
- 8.510.8.H. Attendants shall receive an hourly wage based on the rate negotiated between the attendant and the client/AR not to exceed the amount established by the Department. The FMS shall make all payments from the client's allocation under the direction of the client/AR within the limits established by the Department.
- 8.510.8.I. Attendants may not be eligible for hire if their background check identifies a conviction of a crime that the Department has identified as a barrier crime that can create a health and safety risk to the client. A list of barrier crimes is available through the Training and Operations Vendor and Financial Management Service vendors.
- 8.510.8.J. Attendants may not attend training provided by the Training and Operations Vendor during instruction. Clients attending a retraining may request to have their attendant present to assist them based on their needs. The attendant may not participate in the training session or be present during the budgeting portion of the training.

#### **8.510.9 FINANCIAL MANAGEMENT SERVICES (FMS)**

- 8.510.9.A. The FMS vendor shall be responsible for the following tasks:
1. Collect and process timesheets submitted by attendants within agreed upon timeframes as identified on FMS vendor materials and websites.
  2. Conduct payroll functions including withholding employment related taxes such as worker's compensation insurance, unemployment compensation insurance,

withholding of all federal and state taxes, compliance with federal and state laws regarding overtime pay and minimum wage requirements.

3. Distribute paychecks in accordance with agreements made with client/AR and timelines established by the Colorado Department of Labor and Employment.
  4. Submit authorized claims for CDASS provided to eligible client.
  5. Verify attendants' citizenship status and maintain copies of the I-9 documents.
  6. Track and report utilization of client allocations.
  7. Comply with Department regulations at 10 CCR 2505-10 and the contract with the Department.
  8. Maintain system prompts in the FMS vendor portal requiring case managers to verify all requirements and forms have been completed prior to completing a prior authorization request for services.
  9. Comply with all requirements set forth by the Affordable Care Act.
- 8.510.9.B. In addition to the requirements set forth at 10 CCR 2505-10, §8.510.9.A, the FMS vendor operating under the F/EA model shall be responsible for obtaining designation as a Fiscal/Employer Agent per Section 3504 of the IRS Code. This statute is hereby incorporated by reference. The incorporation of these statutes excludes later amendments to, or editions of the referenced material. Pursuant to C.R.S. § 24-4-103(12.5), the Department maintains copies of this incorporated text in its entirety, available for public inspection during regular business hours at 1570 Grant Street, Denver, CO, 80203. Certified copies of incorporated materials are provided at cost upon request.

#### **8.510.10 SELECTION OF FMS VENDORS**

- 8.510.10.A. The client/AR shall select an FMS vendor at the time of enrollment into CDASS from the vendors contracted with the Department.
- 8.510.10.B The client/AR may select a new FMS vendor during the designated open enrollment periods. The client/AR shall remain with the selected FMS vendor until the transition to the new FMS is completed.

#### **8.510.11 START OF SERVICES**

- 8.510.11.A. The start date shall not occur until all of the requirements defined at 10 C.C.R. 2505-10, § 8.510.2, 8.510.5, 8.510.6 and 8.510.8 have been met.
- 8.510.11.B. The Case Manager shall approve the ASMP, establish a service period, submit a PAR and receive a PAR approval before a client is given the start date and can begin CDASS.

8.510.11.C. The FMS shall process the attendant's employment packet within the Department's prescribed timeframe and ensure the client has a minimum of two approved attendants prior to starting CDASS. Employment relationships with two attendants must be maintained while participating in CDASS.

8.510.11.D. The FMS will not reimburse attendants for services provided prior to the CDASS start date. Attendants are not approved until the FMS provides the client/AR with an employee number and confirms employment status.

8.510.11.E. If a client is transitioning from a Hospital, Nursing Facility, or HCBS agency services the case manager shall coordinate with the Discharge Coordinator to ensure the discharge date and CDASS start date correspond.

#### **8.510.12 SERVICE SUBSTITUTION**

8.510.12.A. Once a start date has been established for CDASS, the case manager shall establish an end date and discontinue the client from any other Medicaid-funded attendant support including Long Term Home Health, Homemaker and Personal Care services effective as of the start date of CDASS.

8.510.12.B. Case managers shall not authorize, on the PAR, concurrent payments for CDASS and other waiver service delivery options for Personal Care services, Homemaker services, and Health Maintenance Activities for the same client.

8.510.12.C. Clients may receive up to sixty days of Medicaid acute home health agency based services directly following acute episodes as defined by 10 CCR 2505-10, § 8.520.4.C.1. CDASS service plans shall be modified to ensure no duplication of services.

8.510.12.D. Clients may receive Hospice services in conjunction with CDASS services. CDASS service plans shall be modified to ensure no duplication of services.

#### **8.510.13 FAILURE TO MEET CLIENT/AR RESPONSIBILITIES**

8.510.13.A. Prior to a client being terminated from CDASS the following steps shall be taken:

1. Mandatory re-training conducted by the contracted Training and Operations Vendor.
2. Required designation of an AR if one is not in place, or mandatory re-designation of an AR if one has already been assigned.

8.510.13.B. Actions requiring retraining or appointment/change of an AR include:

1. The client/AR does not comply with CDASS program requirements including service limitations.
2. The client/AR demonstrates an inability to manage attendant support.

3. The client no longer meets program eligibility criteria due to deterioration in physical or cognitive health as determined by the client's physician or advance practice nurse.
4. The client/AR spends the monthly allocation in a manner causing premature depletion of funds without authorization from the case manager or reserved funds. The case manager will follow the service utilization protocol.
5. The client/AR exhibits Inappropriate Behavior as defined at 10 C.C.R. 2505-10, § 8.510.1 toward attendants, case managers, the Training and Operations Vendor or the FMS.
6. The client/AR authorizes the attendant to perform services while client is in a Nursing Facility, Hospital, a Long Term Care facility or while Incarcerated.

#### **8.510.14 INVOLUNTARY TERMINATION**

- 8.510.14.A. Clients may be involuntarily terminated from CDASS for the following reasons:
1. A client no longer meets program criteria due to deterioration in physical or cognitive health AND refuses to designate an AR to direct services.
  2. The client/AR demonstrates a consistent pattern of overspending their monthly allocation leading to the premature depletion of funds AND the case manager has determined that attempts using the service utilization protocol to assist the client/AR to resolve the overspending have failed.
  3. The client/AR exhibits Inappropriate Behavior as defined at 10 C.C.R. 2505-10, § 8.510.1 toward attendants, case managers, the Training and Operations Vendor or the FMS, and the Department has determined that the Training and Operations Vendor has made attempts to assist the client/AR to resolve the Inappropriate Behavior or assign a new AR, and those attempts have failed.
  4. Client/AR authorized the attendant to perform services for a person other than the client, authorized services not available in CDASS, or allowed services to be performed while the client is in a Hospital, Nursing Facility, a Long Term Care facility or while Incarcerated and the Department has determined the Training and Operations Vendor has made adequate attempts to assist the client/AR in managing appropriate services through retraining.
  5. Intentional submission of fraudulent CDASS documents or information to case managers, the Training and Operations Vendor, the Department or the FMS.
  6. The client/AR provides false information or false records as determined by the Department.
  7. Instances of convicted fraud, abuse, and/or theft in connection with the Colorado Medical Assistance program.



8. Client/AR fails to complete retraining, appoint an AR or remediate CDASS management per 10 C.C.R. 2505-10, § 8.510.13.A.

8.510.14.B. Termination may be initiated immediately for clients being involuntarily terminated.

#### **8.510.15 ENDING CDASS DELIVERY OPTION**

8.510.15.A. If a client chooses to use an alternate care option or is terminated involuntarily, the client will be terminated from CDASS when the case manager has secured an adequate alternative to CDASS in the community.

8.510.15.B. In the event of discontinuation or termination from CDASS, the Case Manager shall:

1. Complete the Notice Services Status (LTC-803) and provide the client or the Authorized Representative with the reasons for termination, information about the client's rights to fair hearing, and appeal procedures. Once notice has been given for termination, the client or Authorized Representative may contact the case manager for assistance in obtaining other home care services or additional benefits if needed.
2. The case manager has thirty (30) calendar days prior to the date of termination to discontinue CDASS and begin alternate care services. Exceptions may be made to increase or decrease the thirty (30) day advance notice requirement when the Department has documented that there is danger to the client. The case manager shall notify the FMS of the date on which the client is being terminated from CDASS.

8.510.15.C. Clients who are involuntarily terminated according to 10 CCR 2505-10, § 8.510.14.A.2., 8.510.14.A.4., 8.510.14.A.5, 8.510.14.A.6., 8.510.14.A.7. and 8.510.14.A.8. may not be re-enrolled in CDASS as a service delivery option.

8.510.15.D. Clients who are involuntary terminated according to 10 CCR 2505-10, § 8.510.14.A.1. are eligible for enrollment in CDASS with the appointment of an AR or eligibility documentation as defined at 10 CCR 2505-10, § 8.510.2.A.5. The client or AR must have successful completion of CDASS training prior to enrollment onto CDASS.

8.510.15.E. Clients who are involuntary terminated according to 10 CCR 2505-10, § 8.510.14.A.3 are eligible for enrollment in CDASS with the appointment of an AR. The client must meet all CDASS eligibility requirements with the AR completing CDASS training prior to enrollment onto CDASS

#### **8.510.16 CASE MANAGEMENT FUNCTIONS**

8.510.16.A. The case manager shall review and approve the ASMP completed by the client/AR. The case manager shall notify the client/AR of the approval and establish a service period and allocation.

8.510.16.B. If the Case Manager determines that the ASMP is inadequate to meet the client's CDASS needs, the case manager shall work with the client/AR to complete a fully developed ASMP which can include referring the client/AR to the CDASS Training and Operations Vendor to assist with further training and care planning to develop the ASMP.

8.510.16.C. The Case Manager shall calculate the allocation for each client who chooses CDASS as follows:

1. Calculate the number of Personal Care, Homemaker, and Health Maintenance Activities hours needed on a monthly basis using the Department prescribed method. The needs determined for the allocation should reflect the needs in the Department approved assessment tool and the service plan. The case manager shall use the Departments established rate for Personal Care, Homemaker, and Health Maintenance Activities to determine the client's allocation.
2. The allocation should be determined using the Department prescribed method at the initial enrollment and at reassessment. Service authorization will align with the client's need for services and adhere to all service authorization requirements and limitations established by the client's waiver program.
3. Allocations that exceed cost containment cannot be authorized by the case manager without Department approval. The case manager will follow the Department's over cost containment process and receive authorization prior to authorizing a start date for attendant services.

8.510.16.D. Prior to training or when an allocation changes, the case manager shall provide written notification of the allocation to the client and the AR.

8.510.16.E. A client/AR who believes the client needs a change in attendant support, may request the case manager to perform a review of the task worksheet and allocation for services within 5 business days.

1. If the review indicates that a change in attendant support is justified, the following actions will be taken:
  - a. The case manager shall provide notice of the allocation change to the client/AR utilizing a long-term care notice of action form to clients within ten (10) business days regarding their appeal rights in accordance with 10 CCR 2505-10, section 8.057 et seq.
  - b. The case manager shall complete a PAR revision indicating the increase in CDASS allocation using the Department information management system and FMS vendor system. PAR completion shall be completed within 5 business days of the allocation determination made by the case manager.
  - c. The client/AR shall amend the ASMP and submit to the case manager.

2. The Training and Operations Vendor is available to facilitate a review of services and provide mediation when there is a disagreement in the services authorized on the task worksheet.
3. The case manager will notify the client of CDASS allocation approval or disapproval by providing a long-term care notice of action form to clients within ten (10) business days regarding their appeal rights in accordance with 10 CCR 2505-10, section 8.057 et seq.

8.510.16.F. In approving an increase in the clients allocation, the case manager shall consider all of the following:

1. Any deterioration in the client's functioning or change in availability of natural supports.
2. The appropriateness of attendant wages as determined by Department's established rate for equivalent services.
3. The appropriate use and application of funds to CDASS services.

8.510.16.G. In reducing a client's allocation, the Case Manager shall consider:

1. Improvement of functional condition or changes in the available natural supports.
2. Inaccuracies or misrepresentation in previously reported condition or need for service.
3. The appropriate use and application of funds to CDASS services.

8.510.16.H. Case managers shall cease payments for all existing Medicaid-funded Personal Care, Homemaker, Health Maintenance Activities and/or Long Term Home Health as defined under the Home Health Program at 10 CCR 2505-10, §8.520 et seq. as of the client's CDASS start date.

8.510.16.I. For effective coordination, monitoring and evaluation of clients receiving CDASS, the case manager shall:

1. Contact the CDASS client/AR once a month during the first three months to assess their CDASS management, their satisfaction with care providers and the quality of services received. Case managers may refer to the FMS for assistance with payroll and to the Training and Operations Vendor for training needs, budgeting and supports.
2. Contact the client quarterly, after the first three months to assess their implementation of service plans, CDASS management issues, quality of care, allocation expenditures and general satisfaction.
3. Contact the client/AR when a change in AR occurs and contact the client/AR once a month for three months after the change takes place.

4. Review monthly FMS reports to monitor allocation spending patterns and service utilization to ensure appropriate budgeting and follow up with the client/AR when discrepancies occur.
  5. Utilize Department overspending protocol when needed to assist CDASS clients/AR.
  6. Follow protocols established by the Department for case management activities.
- 8.510.16.J. Reassessment: The case manager will follow in person and phone contact requirements based on the client's waiver program. Contacts shall include a review of care needs, the ASMP and documentation from the physician stating the client ability to direct care.
- 8.510.16.K. Case Managers shall participate in training and consultative opportunities with the Department's contracted Training & Operations vendor.

#### **8.510.17 ATTENDANT REIMBURSEMENT**

- 8.510.17.A. Attendants shall receive an hourly wage not to exceed the rate established by the Department and negotiated between the attendant and the client/AR hiring the attendant. The FMS shall make all payments from the client's allocation under the direction of the client/AR. Attendant wages shall be commensurate with the level of skill required for the task and wages shall be justified on the ASMP.
- 8.510.17.B Attendant timesheets that exceed the clients monthly CDASS allocation by 30% or higher are not allowed and cannot be authorized by the client or AR for reimbursement through the FMS.
- 8.510.17.C. Once the client's yearly CDASS allocation is used, further payment will not be made by the FMS, even if timesheets are submitted. Reimbursement to attendants for services provided when a client is no longer eligible for CDASS or when the client's allocation has been depleted are the responsibility of the client/AR.
- 8.510.17.D. Allocations that exceed cost containment cannot be authorized by the case manager without Department approval.

#### **8.510.18 REIMBURSEMENT TO FAMILY MEMBERS**

- 8.510.18.A. Family members/legal guardians may be employed by the client/AR to provide CDASS, subject to the conditions below.
- 8.510.18.B. The family member or legal guardian shall be employed by the client/AR and be supervised by the client/AR.
- 8.510.18.C. The family member and/ or legal guardian being reimbursed as a Personal Care, Homemaker, and/or Health Maintenance Activities attendant shall be reimbursed at an hourly rate with the following restrictions:

1. A family member and/or legal guardian shall not be reimbursed for more than forty (40) hours of CDASS in a seven day period from 12:00am on Sunday to 11:59pm on Saturday.
2. Family member wages shall be commensurate with the level of skill required for the task and should not deviate greatly from that of a non-family member attendant unless there is evidence of a higher level of skill.
3. A member of the client's household may only be paid to furnish extraordinary care as determined by the case manager. Extraordinary care is determined by assessing whether the care to be provided exceeds the range of care that a family member would ordinarily perform in the household on behalf of a person without a disability or chronic illness of the same age, and which are necessary to assure the health and welfare of the client and avoid institutionalization. Extraordinary care shall be documented on the service plan.

8.510.18.D. A client/AR who choose a family member as a care provider, shall document the choice on the ASMP.