

## 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 conjunction~~collaboration with the client and made available by the Department through the Financial Management Service (FMS) to clients receiving for attendant support services available in the Consumer Directed Attendant Support Services (CDASS) option and administered by the Financial Management Services (FMS) authorized for attendant support services, and administrative fees paid to the FMS.
- 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.
- ~~C.D.~~ Attendant means the individual who meets qualifications in 10 CCR 2505-10, § 8.510.88 who provides CDASS as determined by 10 CCR 2505-10, § 8.510.3 and is hired by the client-participant or authorized representative or by through the contracted FMS vendor.
- ~~D.E.~~ Attendant Support Management Plan (ASMP) means the documented plan at 10 CCR 2505-10, § 8.510.5 for outlining management of attendant support needs through CDASS. clients to manage their care as determined by 10 CCR 2505-10, § 8.510.4 which is reviewed and approved by the Case Manager.
- ~~E.F.~~ Authorized Representative (AR) means an individual designated by the client or the legal guardian, if appropriate 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, § 8.510.66 and § 8.510.77.

~~Benefits Utilization System (BUS) means the web based data system maintained by the Department for recording case management activities associated with Long Term Services and Supports (LTSS).~~

- ~~F.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. Department approved agency within a designated service area where an applicant or client can obtain Long Term Services and Supports case management services.

H. Case Manager means a person who provides case management services and meets all regulatory requirements for case manager.

~~G-I.~~ Case Management means the assessment of an individual receiving long-term services and supports' needs, the development and implementation of a support plan for such individual, referral and related activities, the coordination and monitoring of long-term service delivery, the evaluation of service effectiveness, and the periodic reassessment of such individual's needs. ~~Case Manager means an individual who meets the qualifications to perform case management activities by contract with the Department.~~

J. 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.

~~H-K.~~ CDASS Certification Period Allocation means the funds determined by the case manager and made available by the Department ~~to participants for attendant services for the date span~~ the client is approved to receive CDASS within the annual certification period.

~~I-L.~~ CDASS Training means the required training, including a final, comprehensive assessment, provided by the Training and Operations Vendor Department or its designee to a client or authorized representative/AR who is interested in CDASS.

~~Continued Stay Review (CSR) means a periodic face to face review of a client's condition and service needs by a Case Manager to determine a client's continued eligibility for Long Term Services and Supports in the client's residence.~~

~~J-M.~~ 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.

N. Department means the Colorado Department of Health Care Policy and Financing, the Single State Medicaid Agency.

~~K-O.~~ Family Member is defined as all persons related to the client by virtue of blood, marriage, adoption, or common law.

~~L-P.~~ Financial Eligibility means the eligibility criteria for a publicly funded program, based on the individual's financial circumstances, including income and resources. a client qualifies for Medicaid based on the applicable eligibility category and the client's individual financial circumstances, including, but not limited to, income and resources.

~~M-Q.~~ 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.

N.R. Fiscal/Employer Agent (F/EA) is ~~thean~~ FMS model utilized in Colorado model where the FMS is an agent of the client as the employer. The ~~program participant~~client or ~~their selected authorized~~ representative is the common law employer of workers hired, trained and managed by the ~~participant~~client or representative. The F/EA pays workers and ~~vendors maintains workers compensation policies~~ on the ~~participant's~~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.

O.S. Functional Eligibility means an individual meets functional criteria for a Health First Colorado Medicaid waiver program as determined by the Department.~~means an applicant or client meets the criteria for Long Term Services and Supports as determined by the Department's prescribed instrument as defined in 10 CCR 2505-10, § 8.401.~~

~~Functional Needs Assessment means a component of the Assessment process which includes a comprehensive evaluation using the ULTC (Uniform Long Term Care) Instrument to determine if the client meets the appropriate Level of Care (LOC).~~

P.T. 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 at home.

Q.U. 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.

R.V. Licensed Medical Professional means a person who has completed a ~~2~~two-year or longer program leading to an academic degree or certificate in a medically related profession. This is limited to those who possess the following medical licenses: physician, physician assistant and nurse governed by the Colorado Medical Practice Act and the Colorado Nurse Practice Act.

~~Long Term Services and Supports (LTSS) means Nursing Facilities, Intermediate Care Facilities for the Intellectually/Developmentally Disabled (ICF/IDD), Home and Community Based Services (HCBS), Long Term Home Health or the Program of All-inclusive Care for the Elderly (PACE), Swing Bed and Hospital Back Up Program (HBU).~~

~~Long Term Services and Supports Certification Period means the designated period of time in which a client is functionally eligible to receive Long Term Services and Supports not to exceed one year.~~

S.W. Prior Authorization Request (PAR) means the Department prescribed ~~form~~ format that used to authorize HCBS waiver services. ~~assures the provider that the service is medically necessary and a Colorado Medical Assistance Program benefit.~~

T.X. 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, cCase mManager contact, or FMS contact.

~~Reassessment means a review of the Assessment, to determine and document a change in the client's condition and/or client's service needs.~~

U.Y. Stable Health means a medically predictable progression or variation of disability or illness.

V.Z. Training and Operations Vendor means the organization contracted by the Department to provide training and customer service for self-directed service delivery options to CDASS cClients, authorized representatives and case managers. ~~provide training to case managers on participant direction, and provide customer service related to participant direction.~~

## 8.510.2 ELIGIBILITY

8.510.2.A. To be eligible for the CDASS delivery option, ~~at the following shall be met by the client;~~ n individual shall meet all of the following:

1. Choose the CDASS delivery service delivery option.
2. ~~Meet medical assistance Financial Eligibility requirements~~
3. ~~Meet Long Term Services and Supports Functional Eligibility requirements~~
42. Be functionally and financially eligible for an HCBS ww waiver with the CDASS delivery option.
35. Demonstrate a current need for allowable A attendant support services.
64. Document a pattern of stable health that necessitates a predictable pattern of A attendant support and appropriateness of CDASS services
57. Provide ~~an statement~~ annual 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 ~~his or her~~ their care with sound judgment or a required AR with the ability to direct the care on the client's behalf.
68. 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.

~~\_\_\_\_\_~~ a. 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 CDASS-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. ~~living in the home.~~

8.510.3.B. Services include:

1. Homemaker. General household activities provided by an ~~a~~Attendant in a client's home to maintain a healthy and safe environment for the client. Homemaker activities shall be applied only to the ~~permanent-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, rubbing of reddened areas, and routine foot checks for people with diabetes
- 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
- e. Personal hygiene:
  - i) Bathing including washing, shampooing, and shaving
  - ii) Grooming
  - iii) Combing and styling of hair
  - iv) ~~Trimming, cutting, and s~~Soaking of nails, pushing back cuticles and filing of nails
  - v) Basic oral hygiene and denture care
- f. Dressing assistance with ordinary clothing and the application of non-prescription support stockings, braces and splits; or-and the application of ~~orthopedic devices such as splints and braces or~~ artificial limbs when the client is able to assist
- g. Transferring a client when the client has sufficient balance and strength to reliably stand, 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 or AR can direct the transfer.~~assist with and can direct the transfer~~
- h. Assistance with mobility when the client has the ability to 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. Assistance with self-administered medications 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 medication reminding:
  - 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.](#) Skin care may include: wound care, dressing changes, application of prescription medicine, and foot care for people with diabetes when prescribed by a licensed medical professional
- b. Nail care in the presence of medical conditions that may involve peripheral circulatory problems or loss of sensation
- c. Mouth care performed when:
  - i) [I](#)there is injury or disease of the face, mouth, head or neck; [or](#)
  - ii) [I](#)n the presence of communicable disease; [or](#)



- iii) ~~T~~he client is unconscious; or
  - iv) ~~e~~Oral suctioning is required
- d. Dressing including the application of anti-embolic or other prescription pressure stockings and prescribed orthopedic devices such as splints, braces, or artificial limbs when client is unable to assist. to complete. if considerable manipulation is necessary. Dressing is considered a health maintenance task when the client is unable to assist or direct care; or when health maintenance level skin care or transfers are required in conjunction with the dressing
- e. Feeding:
- i) When oral suctioning is needed on a stand-by or other basis
  - ii) When the client is on a modified texture diet or when the client has a physiological or neurogenic chewing and/or swallowing problem
  - iii) ~~there is high~~High risk of choking that could result in the need for emergency measures such as CPR or ~~the Heimlich~~abdominal thrusts maneuver as demonstrated by a swallow study
  - iii) Syringe feeding
  - iv) Feeding using apparatus
  - 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 he/she is unable to assist, the client lacks the strength and stability to stand and/or bear weight reliably, is not deemed independent in the use of assistive devices and/or Durable Medical Equipment that has been ordered by a qualified physician, or the use of a lift such as a Hoyer is needed
- h. Bowel care provided to a client including digital stimulation, enemas, care of ostomies, and insertion of a suppository if the client is unable to assist. Bowel care is also considered a health maintenance task when health maintenance level skin care or transfers are required in conjunction with the bowel care.



- i. Bladder care when it involves disruption of the closed system for a Foley or suprapubic catheter, such as changing from a leg bag to a night bag and care of external catheters. Bladder care is also considered a health maintenance task when health maintenance level skin care or transfers are required in conjunction with the bladder care.
- j. Medical management required by a medical professional to monitor: blood pressures, pulses, respiratory assessment, blood sugars, oxygen saturations, pain management, 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) Prescribed respiratory equipment
- ~~l. Bathing assistance is including full or partial bath. Bathing is a 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. Assistance with handling and administering prescribed medications~~
- ~~n. Accompanying includes going with the client, as necessary on the care plan to provide one or more health maintenance care services during the trip; to medical appointments, and errands such as banking and household shopping. Accompanying the client to provide one or more health maintenance 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. Accompanying includes medical appointments, and errands such as banking and household shopping~~
- ~~o. Mobility is considered a health maintenance task when health maintenance level skin care or transfers are required in conjunction with the mobility:
  - i) the client is unable to assist or direct care; or~~

- 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-, and
  - iii) the client has not been deemed independent with adaptive equipment or assistive devices ordered by a qualified licensed medical professional, or-physician
  - iv) health maintenance level skin care or transfers are required in conjunction with the mobility
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.

**8.510.54 ATTENDANT SUPPORT MANAGEMENT PLAN**

8.510.54.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 cCase mManager. CDASS shall not begin until the cCase mManager approves the plan and provides a start date to the FMS. The ASMP is required by the FMS following initial training, retraining and shall be modified when there is a change in the client's needs. The plan shall describe the individual's clients:

1. Current health status

21. Needed attendant support and requirements for CDASS.

- ~~23.~~ Plans for locating and hiring attendants-securing CDASS.
- ~~43.~~ Plans for handling emergencies.
- ~~54.~~ Assurances and plans regarding direction of CDASS Services, as described at 10 CCR 2505 -10, § 8.510.3 and § 8.510.6 if applicable.
- ~~65.~~ Plans for management of the budget within the client's Individual monthly aAllocation.
- ~~76.~~ Designation of an Authorized RepresentativeAR, if applicable.
- ~~87.~~ Designation of regular and back-up employees proposed or approved for hire.

8.510.~~54.~~B. If ASMP is disapproved by the cCase mManager, 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.

#### ~~8.510.5~~ TRAINING ACTIVITIES

~~8.510.5.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.

~~8.510.5.B~~ The verification requirement of 10 CCR 2505-10, §8.510.5.A above will be on a form provided by the FMS and returned to the FMS with the client/AR completed employment packet.

#### ~~8.510.66~~ CLIENT/AR RESPONSIBILITES

8.510.~~66.~~A. Client/AR responsibilities for CDASS Management:

1. ~~Attend-Complete~~ training provided by the Training and Operations Vendor; clients who cannot attend-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 qualificationscredentials for attendants.
5. Recruit, hire and manage attendants.

- ~~6.5.~~ Complete previous employment reference checks on aAttendants.
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.
- ~~612.~~ Follow all relevant laws and regulations applicable to ~~client's~~ the supervision of aAttendants.
- ~~137.~~ Explain the role of the FMS to the Aattendant.
- ~~814.-~~ Budget for aAttendant care within the established monthly and CDASS cCertification pPeriod aAllocation.
- a. Services that exceed the clients monthly CDASS allocation by 30% or higher are not allowed and will not be reimbursed by the FMS.
15. Authorize attendant to perform services allowed through CDASS.
- ~~9165.~~ Review all aAttendant timesheets and statements for accuracy of time worked, completeness, and client/AR and aAttendant signatures. Timesheets shall reflect actual time spent providing CDASS. services
- ~~40176.~~ Review and submit approved aAttendant timesheets to the FMS by the established timelines for aAttendant reimbursement.
- ~~44187.~~ Authorize the FMS to make any changes in the aAttendant wages.
- ~~42189.~~ 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.

~~131209.~~ Completing and managing all paperwork and maintaining employment records.

~~14291.~~ Select an FMS vendor upon enrollment into CDASS.

~~8.510.6.B. Client/AR responsibilities for CDASS in the F/EA FMS model:~~

~~1. Recruit, hire, fire and manage Attendants~~

~~2. Train Attendants to meet client needs~~

~~3. Terminate Attendants who are not meeting client needs~~

~~4. Operate as the sole employer of the attendant~~

~~5. Complete necessary employment related functions through the FMS agent, including hiring and termination of Attendants and employer related paperwork necessary to obtain an employer tax ID~~

8.510.6.6.B.C 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.

8.510.66.CD. Clients receiving/utilizing CDASS services 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. CDASS eClients using CDASS have the right to transition back to alternative service delivery options at any time. Personal Care, Homemaker, and Home Health Aide and Nursing services provided by an agency at any time. A client who wishes to transition back to an agency provided services shall contact the Case Manager. The Case Manager shall coordinate arrangements the transition and referral process. for the services.
6. A client/AR may request a re-assessment, as described at 10 CCR 2505-10, § 8.390.1 (N), if his or her the client's level of service needs have changed.

7. A client/AR may revise the ASMP at any time with CM case manager approval. ~~CM shall notify FMS of changes.~~

#### **8.510.77 AUTHORIZED REPRESENTATIVES (AR)**

8.510.77.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.

8.510.77.CB. ~~Authorized Representatives~~An AR shall not receive reimbursement from Health First Colorado Medicaid for AR services and shall not be reimbursed ~~for CDASS services~~ as an aAttendant 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.

#### **8.510.88 ATTENDANTS**

8.510.88.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.

8.510.88.B. Attendants may not be reimbursed for more than 24 hours of CDASS service in one day for one or more clients collectively.

8.510.88.C. ~~Authorized Representatives~~An AR shall not be employed as an Aattendant for the same client they are an AR for.

8.510.88.D. Attendants must be able to perform the tasks on the sService plan they are being reimbursed for and the client must have adequate aAttendants 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.

8.510.88.FE. 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.~~88~~.~~GF~~. 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.~~88~~.~~HG~~. Attendants shall receive an hourly wage based on the rate negotiated between the ~~a~~Attendant and the client/AR not to exceed the amount established by the Department. The FMS shall make all payments from the client's ~~Individual a~~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.~~88~~.~~JH~~. Attendants may not attend training provided by the Training and Operations Vendor during instruction. Client's attending a retraining may request to have ~~an~~ 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.~~985~~ \_\_\_\_\_ FINANCIAL MANAGEMENT SERVICES (FMS)**

8.510.~~895~~.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 ~~A~~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.~~895~~.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.~~8106~~ SELECTION OF FMS VENDORS**

8.510.~~8106~~.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.~~810.6~~-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 selection transition to the new of-FMS is changed-completed-during the designated open enrollment period.

#### **8.510.~~9-11~~ START OF SERVICES**

8.510.~~911~~.A. The start date shall not occur until all of the requirements defined at 10 C.C.R. 2505-10, § 8.510.2, ~~8-510.4~~, 8.510.5, 8.510.6 and 8.510.8 have been met.

8.510.~~911~~.B. The Case Manager shall approve the ASMP, establish a ~~certification-service~~ period, submit a PAR and receive a PAR approval before a client is given the start date and can begin CDASS.

8.510.~~911~~.C. The FMS shall process the ~~a~~Attendant's employment packet within the Department's prescribed timeframe and ensure the client has a minimum of two approved ~~a~~Attendants prior to starting CDASS. Employment relationships with two ~~a~~Attendants must be maintained while participating in CDASS.

8.510.~~911~~.D. The FMS will not reimburse ~~A~~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.~~911~~.E. If a client is transitioning from a Hospital, Nursing Facility, or HCBS agency services the ~~CM-case manager~~ shall coordinate with the Discharge Coordinator to ensure the discharge date and CDASS start date correspond.

#### **8.510.~~4012~~ SERVICE SUBSTITUTION**

8.510.~~4012~~.A. Once a start date has been established for CDASS, the ~~c~~Case ~~m~~anager shall establish an end date and ~~disenroll-discontinue~~ the ~~individual-client~~ from any other Medicaid-funded ~~-a~~Attendant support including Long Term Home Health, Homemaking and Personal Care services effective as of the start date of CDASS.

8.510.4012.B. Case mManagers 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 individual/client.

8.510.4012.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, § 8.5230.444.KC.1. -CDASS service plans shall be modified to ensure no duplication of services. Client allocations shall not be changed for sixty days in response to an acute episode unless acute home health services are unavailable. If acute home health is unavailable, a client's allocation may be temporarily adjusted to meet a client's need.

8.510.4012.D. Clients may receive Hospice services in conjunction with CDASS services. CDASS service plans shall be modified to ensure no duplication of services.

#### ~~8.510.11~~ ~~ENDING CONSUMER DIRECTED ATTENDANT SUPPORT SERVICES~~

~~8.510.11.A. If an individual chooses to use an alternate care option, an institutional setting, or is terminated involuntarily, a client will be terminated from CDASS when the Case Manager has secured an adequate alternative to CDASS in the community.~~

#### ~~8.510.4131.B.~~ FAILURE TO MEET CLIENT/AR RESPONSIBILITIES

~~8.510.13.A.~~ Prior to a client being terminated from CDASS for reasons other than those listed in section 10 CCR 2505-10, §8.510.13, the following steps may 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:

- ~~3. Discontinuation according to the following:~~
  - ~~i) The notice shall provide the client/AR with the reasons for termination and with information about the client's rights to fair hearing and appeal procedures, in accordance with 10 CCR 2505-10, §§ 8.057. Once notice has been given for termination, the client/AR shall contact the Case Manager for assistance in obtaining other home care services. The Case Manager has thirty (30) calendar days prior to the date of termination to discontinue CDASS services and begin alternate care services. Exceptions may be made to the thirty (30) day advance notice requirement when the Department has documented that there is danger to the client or to the Attendant(s). The Case Manager shall notify the FMS of the date on which the client is being terminated from CDASS.~~

#### ~~8.510.12~~ ~~TERMINATION~~

~~8.510.12.A. — Clients may be terminated for the following reasons:~~

- ~~1. The client/AR fails to does not comply with CDASS program requirements including service limitations.~~
- ~~2. The client/AR demonstrates an inability to manage A attendant support.~~
- ~~3. The client/AR 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 aAllocation in a manner indicating-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's medical condition causes an unsafe situation for the client, as determined by the treating physician.~~
- ~~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.~~
- ~~6. The client provides false information or false records as determined by the Department~~

~~8.510.12.B — Clients who are terminated according to 10 CCR 2505-10, § 8.510.12 may be re-enrolled for future CDASS service delivery~~

#### **8.510.134 INVOLUNTARY TERMINATION**

~~8.510.134.A. Clients who are involuntarily terminated may not be re-enrolled in CDASS as a service delivery option. Clients may be involuntarily terminated from CDASS for the following reasons:~~

- ~~1. A client/AR 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 aAllocation leading to the premature depletion of funds AND the Department cCase mManager has determined that adequate 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 aAttendants, cCase Mmanagers, the Training and Operations Vendor or the FMS, and the Department has determined that the Training and Operations Vendor has made adequate 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. Documented misuse of the monthly Allocation by client/AR has occurred
5. Intentional submission of fraudulent CDASS documents or information to cCase mManagers, 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 and/or abuse, 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.

8.510.143.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, an institutional setting, 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 and the AR, if applicable, 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 AR may contact the cCase mManagers 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.

8.510.135.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. ~~43~~ 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

### **8.510.146 CASE MANAGEMENT FUNCTIONS**

8.510.164.A. The ~~c~~Case ~~m~~Manager shall review and approve the ASMP completed by the client/AR. The ~~C~~case ~~m~~Manager shall notify the client/AR of the approval and establish a ~~certification-service~~ period and ~~a~~Allocation.

8.510.164.B. If the Case Manager determines that the ASMP is inadequate to meet the client's CDASS needs, the ~~c~~Case ~~m~~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.~~assist the client/AR with further development of the ASMP.~~

8.510.164.C. The Case Manager shall calculate the ~~Individual a~~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 ~~a~~Allocation should reflect the needs in the ~~ULTC-Department approved~~ assessment tool and the service plan. The ~~c~~Case ~~m~~Manager shall use the Departments established rate for Personal Care, Homemaker, and Health Maintenance Activities to determine the client's allocation.
2. The ~~a~~Allocation should be determined using the Department prescribed method at the initial enrollment and at ~~CSR, and reassessment should always match the client's need for service. s-~~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.

8.510.164.D. Prior to training or when an allocation changes, the cCase mManager shall provide written notification of the Individual aAllocation to each the client and the AR.

8.510.164.E. A client/AR who believes the client he or she needs a change in Aattendant support, may request the Ccase mManager to perform a reassessmentreview of the task worksheet and allocation for services within 5 business days.

1. If the reassessment review indicates that a change in Aattendant support is justified, the following actions will be taken; the client/AR shall amend the ASMP and the cCase mManager shall complete a PAR revision indicating the increase, and submit it to the Department's fiscal agent.

a. 2. The Ccase mManager 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 theand make changes in the BUSDepartment 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.

23. 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.

34. The case manager will notify the client of CDASS serviceallocation 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 seqNotice Services Status (LTC-803).

8.510.164.F. In approving an increase in the clients individual Aallocation, the cCase mManager shall consider all of the following:

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

8.510.164.G. In reducing a client's Individual 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.

8.510.164.H. Case Managers shall ~~notify the state fiscal agent to~~ 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.

8.510.164.I. For effective coordination, monitoring and evaluation of clients receiving CDASS, the ~~c~~Case ~~m~~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 ~~m~~Managers may refer ~~clients~~ to the FMS for assistance with payroll ~~and budgeting~~ 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, ~~and~~ quality of care, CDASS 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 client 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.

8.510.164.J. Reassessment: ~~For clients receiving CDASS, the Case Manager shall conduct an interview with each client/AR every six months and at least every 12 months. The case manager will follow in person and phone contact requirements based on the client's waiver program.~~ the interview shall be conducted face to face. The interview ~~Contacts~~ shall include a review of care needs, the ASMP and documentation from the physician stating the client/~~AR's~~ 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.



## **8.510.175 ATTENDANT REIMBURSEMENT**

8.510.157.A. Attendants shall receive an hourly wage not to exceed the rate established by the Department and negotiated between the aAttendant and the client/AR hiring the aAttendant. The FMS shall make all payments from the client's Individual Aallocation 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 will not be reimbursed by the FMS. Reimbursement to attendants for timesheets that exceed the service limitation are the responsibility of the client/AR.

8.510.4517.CB. Once the client's yearly CDASS aAllocation is used, further payment will not be made by the FMS, even if timesheets are submitted. Reimbursement to aAttendants for services provided when a client is no longer eligible for CDASS or when the client's Aallocation has been depleted are the responsibility of the client/AR.

8.510.4517.DC. Allocations that exceed cost containment cannot be authorized by the case manager without Department approval. Allocations shall not exceed the monthly cost containment cap. The Department may approve an over cost containment Allocation if it meets prescribed Department criteria.

## **8.510.4618 REIMBURSEMENT TO FAMILY MEMBERS**

8.510.4618.A. Family members/legal guardians may be employed by the client/AR or FMS to provide CDASS, subject to the conditions below. For the purposes of this section, family shall be defined as all persons related to the client by virtue of blood, marriage, adoption, or common law.

8.510.4618.B. The family member or legal guardian shall be employed by the client/AR or FMS and be supervised by the client/AR, if providing CDASS.

8.510.46.C.18.C. \_\_\_\_\_ The family member and/ or legal guardian being reimbursed as a Personal Care, Homemaker, and/or Health Maintenance Activities aAttendant 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 Aattendant 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 cCase mManager. 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.~~46~~18.D. A client/AR who choose a family member as a care provider, shall document the choice on the ~~Attendant Support Services management plan~~ASMP.

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