Title of Rule:	Revision to the Home and Community Based Services Home Modification Rule for Persons with Brain Injury Waiver, Community Mental Health Supports Waiver, Spinal Cord Injury Waiver, and Elderly, Blind, and Disabled Waiver, Section 8.493
Rule Number:	MSB 10 C.C.R. 2505-10 8.493
Division / Contact / Phone:	LTSS / Diane Byrne / 303-866-2873

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

   Description: The rules set forth at 10 CCR 2505-10 Section 8.493 are being revised to allow the Department to meet a Legislative directive and appropriate to raise the cap for the Home Modification benefit. This appropriation indicated the Department was responsible for bringing forward a rule change to the Medical Services Board that increases the amount of money available to the benefit within the feasible amount available within the approved funding. A change in the dollar threshold at which occupational therapist evaluations are required and case managers may approve without a PAR was also determined within the Home Modification Stakeholder Workgroup. The lifetime cap was increased from $12,500 to $14,000 and the OT evaluation/CM approval threshold was increased from $1,000 to $1,500

2. An emergency rule-making is imperatively necessary

   ☐ to comply with state or federal law or federal regulation and/or

   ☐ for the preservation of public health, safety and welfare.

   Explain:

3. Federal authority for the Rule, if any:

   42 U.S.C. §1396n(c)

4. State Authority for the Rule:

   25.5-1-301 through 25.5-1-303, C.R.S. (2014);
   C.R.S. 25.5-6-704, Long Bill (SB-15-234) appropriating $711,238 to increase the lifetime cap on home modifications.

Initial Review	**07/10/2015**	Final Adoption	**08/14/2015**
Proposed Effective Date	**09/30/2015**	Emergency Adoption	

DOCUMENT #01

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, REGULATORY ANALYSIS

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

Persons who utilize the Home Modification benefit in the Elderly, Blind, and Disabled waiver, the Brain Injury waiver, the Community Mental Health Supports waiver, and the Spinal Cord Injury waiver will benefit from an increase in the cap on the Home Modification funds available to them. Budget projections anticipate that the allocation provided by legislation will enable the Department to raise the maximum available amount to $14,000. There is no cost to the Department.

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

This rule will have a positive economic impact on persons who choose to use the additional funds. Persons who have access to the Home Modification benefit but who do not choose to utilize the additional funds will not be impacted. Lower cost home modifications will also be implemented more quickly with the adjustment in the OT evaluation/CM approval threshold.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

There is no cost to the Department. The funds are available to the Department via an appropriation and directive from the State Legislature which indicates that the Department is responsible for using the funds to increase the Home Modification benefit cap.

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

The Department is revising the rule to increase the lifetime cap, which will enable the Department to meet the Legislative directive.

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

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This rule revision does not increase the cost to the Department for providing the Home Modification benefit, but rather enables the Department to utilize the appropriation granted by the Legislature.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

The increase of the lifetime cap on the Home Modification benefit via the revision to Section 8.493 is necessary for the Department to access and distribute the appropriated funds and meet the Legislative directive.

8.493 HOME MODIFICATION

8.493.1 DEFINTIONS

Eligible Client means a client who is enrolled in the following Home and Community-Based Services (HCBS) waivers: Brain Injury, Spinal Cord Injury, Community Mental Health Supports, or Elderly, Blind and Disabled.

Home Modification means specific modifications, adaptations or improvements in an Eligible Client's existing home setting which, based on the client's medical condition:

1. Are necessary to ensure the health, welfare and safety of the client, and
2. Enable the client to function with greater independence in the home, and
3. Are required because of the client's illness, impairment or disability, as documented on the ULTC-100.2 form and the care plan; and
4. Prevents institutionalization of the client.

Home Modification Provider means a provider agency that has met all the standards for Home Modification described in 10 C.C.R. 2505-10, Section 8.493.5.B and is an enrolled Medicaid provider.

8.493.2 BENEFITS

8.493.2.A. Home Modifications, adaptations or improvements may include but are not limited to the following:

1. Installing or building ramps.
2. Installing grab-bars and installing other durable medical equipment as part of a larger Home Modification project.
3. Widening doorways.
4. Modifying bathrooms.
5. Modifying kitchen facilities.
6. Installing specialized electric and plumbing systems that are necessary to accommodate medically necessary equipment and su-pplies.

8.493.2.B. Previously completed Home Modifications shall be eligible for maintenance or repair within the client's remaining allotment while remaining subject to 8.493.3, Exceptions and Restrictions.

8.493.3 EXCEPTIONS AND RESTRICTIONS

8.493.3.A. Modifications to an existing home that are not a direct medical or remedial benefit to the client are not a benefit.

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8.493.3.B. Duplicate adaptations, improvements, or modifications as a part of new construction costs are not a benefit.

8.493.3.C. The Department may deny requests for Home Modification projects that exceed usual and customary charges or do not meet industry standards.

8.493.3.D. Home Modification projects are not a benefit in any type of certified or non-certified congregate facility, as defined in 10 C.C.R. 2505-10, Sections 8.485.50 F. and G.

8.493.3.E. There shall be a lifetime cap of $~~12,500~~14,000 per client. The increase in the lifetime cap available to a client is contingent and shall not be in effect until approved by the Centers for Medicare and Medicaid Services (CMS). Until approved by CMS, the lifetime cap shall be $10,000 per client.

8.493.3.F. Volunteer work on a Home Modification project approved by the Department shall be completed under the supervision of the Home Modification Provider as stated on the bid.

8.493.4 SINGLE ENTRY POINT AGENCY RESPONSIBILITIES

8.493.4.A. The SEP case manager shall consider alternative funding sources to complete the Home Modification. These alternatives shall be documented in the case record.

8.493.4.B. The SEP case manager shall obtain prior approval by submitting a Prior Authorization request form (PAR) to the Department for Home Modification projects estimated at between $~~1,000.00~~ 1,500.00 and $~~12,500.00~~14,000. The increase in the lifetime cap available to a client is contingent and shall not be in effect until approved by the Centers for Medicare and Medicaid Services (CMS). Until approved by CMS, the lifetime cap shall be $10,000 per client.

8.493.4.C. The SEP case manager may approve Home Modification projects estimated at less than $~~1,000.00~~1,500.00 without prior authorization.

8.493.4.D. The Department may conduct on-site visits or any other investigations deemed necessary prior to approving or denying the Home Modification request.

8.493.4.E. Home Modifications estimated to cost $~~1,000.00~~1,500.00 or more shall be evaluated according to the following procedures:

1. An occupational therapist shall assess the client's needs and the therapeutic value of the requested Home Modification. When an occupational therapist with experience in Home Modification is not available, a Department-approved physical therapist or other qualified individual may be substituted. A report specifying how the Home Modification would contribute to a client's ability to remain in or return to his/her home, and how the Home Modification would increase the individual's independence and decrease the need for other services, shall be completed before bids are solicited. This evaluation shall be submitted with the PAR.

2. The occupational therapist services may be provided by a home health agency and billed to Medicaid Home Health consistent with Home Health rules set forth in 10 C.C.R. 2505-10, Section 8.520, including physician orders and plans of care.

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3. The SEP case manager and the occupational therapist shall consider less expensive alternative methods of addressing the client's needs. The case manager shall document these alternatives in the client's case file.

8.493.4.F. The SEP case manager shall follow a bid process according to the following procedures:

1. The SEP case manager shall solicit and receive bids from at least two Home Modification Providers.

2. The bids shall include a breakdown of the costs of the project including:

a. Description of the work to be completed.

b. Estimate of the materials and labor needed to complete the project.

c. Estimate for building permits, if needed.

d. Estimated timeline for completing the project.

e. Name, address and telephone number of the Home Modification Provider.

f. Signature of the Home Modification Provider.

3. Home Modification Providers have a maximum of 30 days to submit a bid for the Home Modification project after the SEP case manager has solicited the bid.

4. The SEP case manager shall submit copies of the bids and occupational therapist's evaluation with the PAR to the Department. The Department shall authorize payment to the lowest bidder.

5. The SEP case manager may request approval of bid that is not the lowest by submitting a written justification or explanation to the Department with the PAR.

6. If the SEP case manager has made three attempts to obtain a written bid from Home Modification Providers and the Home Modification Providers have not responded within 30 calendar days, the case manager may accept one bid. Documentation of the contacts and an explanation of these attempts shall be attached to the PAR.

7. A revised PAR and bid request shall be submitted according to the procedures outlined in this Section for any changes from the original approved PAR.

8. Home Modification projects shall be initiated within 60 days of signed approval from the Department.

8.493.4.G. If a property to be modified is not owned by the client or the client's family, the SEP case manager shall obtain a letter from the owner of the property authorizing modifications to the property prior to initiation of the project and allowing the client to leave the modification in place if the property is vacated by the client.

8.493.5 PROVIDER RESPONSIBILITIES

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8.493.5.A. Home Modification Providers shall conform to all general certification standards and procedures set forth in 10 C.C.R. 2505-10, Section 8.487.11.

8.493.5.B. Home Modification Providers shall be licensed in the city or county in which they propose to provide Home Modification services to perform the work proposed, if required by that city or county.

8.493.5.C. The Home Modification Provider shall provide a one-year written warranty on materials and labor from date of final inspection on all completed work.

8.493.5.D. The Home Modification Provider shall assure that the project complies with local and/or state building codes. In areas where there is no building authority, the Home Modification Provider shall assure that the project complies with the appropriate provisions of the 2003 edition of the International Residential Code and the accessibility provisions contained within the 2003 edition of the International Building Code. The Home Modification project shall also comply with the Colorado Plumbing Code as adopted by the Colorado Examining Board of Plumbers and the National Electrical Code as adopted by the Colorado Electrical Board, effective July 1, 2005. No amendments or later editions are incorporated. Any material that has been incorporated by reference in this rule may be examined at any state publications repository library. Copies of the 2003 International Building Code and copies of the rules and regulations of the State Electrical Board and State Examining Board of Plumbers are available for inspection from: Custodian of Records, Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado, 80203-1714.

8.493.5.E. All Home Modification projects shall be inspected and approved by a state, local or county building inspector or a licensed engineer, architect, contractor or any other person as designated by the Department.

8.493.5.F. Copies of building permits and inspection reports shall be submitted to the SEP case manager and all problems noted on inspections shall be corrected before the Home Modification Provider submits a final invoice for the payment. In the event that a permit is not required, the Home Modification Provider shall submit to the SEP case manager a signed statement indicating that a permit is not required.

8.493.6 REIMBURSEMENT

8.493.7 Payment for Home Modification services shall be the lower of the billed charges or the prior authorized amount. Reimbursement shall be made in two payments per Home Modification.

8.493.7.A. The Home Modification Provider may submit a claim for an initial payment of no more than fifty percent of the project cost for materials, permits and initial labor costs.

8.493.7.B. Final payment shall be made when the Home Modification project has been completed and the SEP agency has in the client's file copies of:

1. Signed lien waivers for all labor and materials, including lien waivers from sub-contractors.

2. Required permits.

3. One year written warranty on parts and labor.

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4. Final inspection documentation verified by the SEP case manager and documented in the client's file that the Home Modification has been completed through:

   a. Contact with the building inspector or other inspector as referenced at 10 C.C.R. 2505-10, Section 8.493.5.E; or

   b. Contact with the client; or

   c. Contact with the family member or responsible party; or

   d. By conducting an on-site visit.

8.493.7.C. The Home Modification Provider shall only be reimbursed for materials and labor for work that has been completed satisfactorily. If another Home Modification Provider is required to complete the work, the original Home Modification Provider shall be paid only the difference between the amount paid originally to the Home Modification Provider and the amount needed to complete the Home Modification paid to the second Home Modification Provider, up to the ~~$$12,500.00~~$14,000.00 maximum lifetime cap. The increase in the lifetime cap available to a client is contingent and shall not be in effect until approved by the Centers for Medicare and Medicaid Services (CMS). Until approved by CMS, the lifetime cap shall be $10,000 per client.

8.493.7.D. The Home Modification Provider shall not be reimbursed for durable medical equipment available as a Medicaid state plan benefit unless the purchase and installation of the equipment is part of a larger Home Modification project.

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