



# COLORADO

Department of Public  
Health & Environment

Dedicated to protecting and improving the health and environment of the people of Colorado

October 9, 2018

Medical Services Board  
Chris Sykes, Medical Services Board Coordinator  
Colorado Department of Health Care Policy and Financing  
1570 Grant Street  
Denver, Colorado 80203  
chris.sykes@state.co.us

SENT VIA EMAIL AND CERTIFIED AND FIRST-CLASS MAIL

RE: Community Clinics & Community Clinics and Emergency Centers

Dear Mr. Sykes:

The Colorado Department of Public Health and Environment (“Department”) understands that the Medical Services Board raised several questions during its September 14, 2018 meeting concerning the licensure of Community Clinics (CCs) and Community Clinics and Emergency Centers (CCECs). This letter serves as the Department’s response to the Medical Services Board’s inquiry.

## I. COMMUNITY CLINICS & COMMUNITY CLINICS AND EMERGENCY CENTERS 6 C.C.R. 1011-1, Ch. 9

CDPHE’s regulations at 6 C.C.R. 1011-1, Chapter 9 govern CCs and CCECs. These rules are designed to establish standards for the operation of CC/CCECs that address patient safety and protect consumers. The rules are not drafted with billing or reimbursement policies in mind.

Within that framework, the regulation defines CC/CCECs as health care facilities that provide health care services on an ambulatory basis. 6 C.C.R. 1011-1, Ch. 9 § 2.101(3). In doing so, CC/CCECs are permitted to operate “inpatient beds” for the provision of extended observation, not to exceed seventy-two (72) hours. *Id.* The term “inpatient beds” is defined in regulation to mean “the use of beds for the care of medically stable patients who present for primary care services but would benefit from monitoring by nurses and physicians for a period between 12 and 72 hours . . . .” *Id.* at (6).

Consequently, the use of the term “inpatient” does not mean “inpatient” as used in a hospital setting. The “inpatient beds” that CC/CCECs are permitted to operate under their license type are more appropriately compared to an “outpatient observation bed” of a hospital. Observation beds within a hospital are not considered inpatient beds.

## II. WAIVER OF THE 72-HOUR REGULATORY LIMIT TO OUTPATIENT OBSERVATION SERVICES

During the respiratory virus season, Children’s Hospital facilities may face unusually high patient volume. During those temporary periods, upon receipt of a regulatory waiver request, CDPHE has granted certain Children’s Hospital facilities with a rule



waiver to the seventy-two (72) hour limit for the provision of extended outpatient observation services. Importantly, however, these waivers are limited to identifying a duration of time during which the 72 hour time limit may be exceeded for observation services. The waivers do not serve to expand the scope of services permitted for a licensed CC/CCEC and are not a basis for a CC/CCEC to provide inpatient care during periods of high patient census.

### III. CHILDREN'S HOSPITAL COLORADO NORTH CAMPUS (BROOMFIELD) IS LICENSED AS A COMMUNITY CLINIC (CC)

The Children's Hospital Colorado North Campus, located in Broomfield, is currently licensed as a Community Clinic (CC). Children's Hospital Colorado North Campus (Broomfield License number is 18F110 and the current term runs from October 20, 2017 to October 19, 2018. This location is surveyed as a CC, consistent with its license type.

As a CC license-holder, the Children's Hospital Colorado North Campus provides health care services on an ambulatory basis and operates inpatient beds at the facility for extended observation services for not more than seventy-two hours. Community clinics do not provide emergency services at the facility.

As a licensed CC, this location is not licensed to provide emergency services nor is it licensed as a Hospital.

Sincerely,

*D. Randy Kuykendall*  
*by MR*

D. Randy Kuykendall, MLS  
Director, Health Facilities and EMS Division

cc: File  
Michelle Reese, Interim Division Director  
Gretchen Hammer, Medicaid Director





October 8, 2018

Ms. Christy Blakely  
President, Medical Services Board  
Colorado Department of Health Care Policy and Financing  
1570 Grant Street  
Denver, CO 80203-1818

**RE: Proposed Revisions to the Medical Assistance Rule for Community Clinics and Community Clinics with Emergency Centers, MSB 18-02-09-B**

Dear Ms. Blakely:

Thank you for the opportunity to share Children's Hospital Colorado's concerns regarding the Colorado Department of Health Care Policy and Financing's (HCPF) proposed changes to reimbursement methodology and allowable services for facilities licensed as community clinics and community clinics with emergency centers. As we carry on our mission to improve the health of children through the provision of high-quality, coordinated programs of patient care, education, research and advocacy, we rely on strong partnerships with state agencies. When this recent change was proposed, we reached out to our partners to address concerns with the proposed rule regarding access to care.

As previously shared with the Medical Services Board during the September hearing in Wray, Children's Hospital Colorado currently operates one community clinic at our North Campus location in Broomfield that would be impacted by this rule due to its current licensure category with the Colorado Department of Public Health and Environment (CDPHE).

Children's Hospital Colorado also noted that we support HCPF's overarching goal to establish a new provider type for these facilities so that data can be obtained and evaluated to better understand utilization and services provided at these facilities.

However, as we shared in testimony, we disagree with the regulatory framework that HCPF is using to implement these changes. Chief among these concerns is that we continue to believe that the Centers for Medicare and Medicaid Services authorizes facilities that operate as off-campus remote hospital locations to provide inpatient care services and to be reimbursed for associated services (42 CFR § 413.65; 83 Fed. Reg. 41144, 41369; and 67 Fed. Reg. 31404, 31482).

Regardless of these issues, it has become clear that the disputed difference of legal interpretations is unlikely to be resolved within the timeframe of the Department's rule implementation. To ensure we are adequately prepared for the operational and workforce issues associated with the likely adoption of this rule, we are writing to inform the Medical Services Board that Children's Hospital Colorado has made the decision to align the services offered at the North Campus in accordance with HCPF's proposed new policy.





We will continue to admit as outpatients / provide observation care for patients who do not meet the need for inpatient admission for up to 72 hours (as authorized by CDPHE for facilities holding a community clinic license), with the understanding that HCPF's new policy will only pay for the first 48 hours of observation care provided to Medicaid beneficiaries.

For patients who meet the medical criteria for inpatient admission, instead of admitting those patients for inpatient care to our North Campus community clinic, we will transfer them to an appropriate licensed general hospital for inpatient treatment.

Rest assured that we did not take this decision lightly, as our central concern all along has been access to pediatric care for families in the North Campus community. With this change, we commit to ensuring that proper and adequate communications are provided to families, community primary care providers and practices during this transition of services at our facility. Above all, we will continue to fulfill our mission to provide high-quality pediatric care for all children and their families. In the future, we hope for expanded partnership to ensure that the goals of proposed rule changes are realized while maintaining access to care.

Thank you for considering our concerns through this rulemaking process. If you have any additional questions, please do not hesitate to contact us. We look forward to our continued collaboration with the Medical Services Board and with HCPF on other critical issues impacting children and families in Colorado.

Sincerely,

Suzy Jaeger  
Senior Vice President and Chief, Patient Experience & Access  
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CC:

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