

Title of Rule: Revision to the Medical Assistance Home and Community Based Services Rule
Concerning Supported Living Program, Section 8.515.85
Rule Number: MSB 16-02-25-A
Division / Contact / Phone: LTSS / Diane Byrne / 303-866-4030

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).

The rules set forth at 10 CCR 2505-10 8.515.85 are being revised to make minor changes to clarify the compliance requirements for Supportive Living Program (SLP) providers that provided SLP services before December 31, 2014.

There has been confusion on the part our sister agencies, the Department of Public Health and Environment (CDPHE) and the Department of Fire Prevention and Control (DFPC), about the compliance requirements for existing SLP providers. After meeting with SLP providers, CDPHE officials, and DFPC officials, it was requested that the Department clarify how existing providers show compliance with licensure and certification requirements.

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. (2015);
C.R.S. 25.5-6-704

Initial Review
Proposed Effective Date

04/08/2016
06/30/2016

Final Adoption
Emergency Adoption

05/13/2016

DOCUMENT #04

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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 SLP services through the BI waiver will benefit from increased communication and clarity on how existing SLP providers show compliance with licensure and certification requirements. Without this change, existing SLP providers are in danger of being unable to continue providing services due to confusion about compliance requirements. This would endanger the services and residences of many clients on the BI waiver and put them at risk of institutionalization.

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

Without this rule change, clients currently receiving SLP services would be at risk of losing residential placement and services because some SLP providers with older physical facilities would be unable to comply with Department rules, CDPHE rules, and DFPC rules. Those SLP providers serve approximately ninety clients that would be at risk of institutionalization.

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

This rule should have no cost to the Department, CDPHE, or DFPC. There is no anticipated effect on state revenues.

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

The probable costs of inaction would be the loss of at least two out of five current SLP providers. The clients served by these providers would be at high risk of institutionalization, which would result in increased costs to the Department.

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

As there is no cost to the Department, there are no less costly methods of achieving this rule's purpose. This rule change is the least intrusive method of achieving this

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purpose as it comes at the request of two sister agencies responsible for enforcing the rule.

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.

All alternative methods of achieving this rule's purpose would involve much more complicated rule changes on the part of CDPHE and DFPC. These were rejected as impractical and more time-consuming.

1 **8.515.85 SUPPORTIVE LIVING PROGRAM**

2 8.515.85.A DEFINITIONS

3 Activities of Daily Living (ADLs) mean basic self-care activities, including mobility, bathing,
4 toileting, dressing, eating, transferring, support for memory and cognition, and behavioral
5 supervision.

6 Assistance means the use of manual methods to guide, assist, with the initiation or completion of
7 voluntary movement or functioning of an individual's body through the use of physical contact by
8 others, except for the purpose of providing physical restraint.

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

11 Authorized Representative means an individual designated by the client or the legal guardian, if
12 appropriate, who has the judgment and ability to assist the client in acquiring and utilizing
13 supports and services.

14 Behavioral Management and Education means services as defined in 10 CCR 2505-10 §
15 8.516.40.A and inclusions as defined at § 8.516.40.B, as an individually developed intervention
16 designed to decrease/control the client's severe maladaptive behaviors which, if not modified, will
17 interfere with the client's ability to remain integrated in the community.

18 Case Management Agency (CMA) means an agency within a designated service area where an
19 applicant or client can obtain Case Management services. CMAs include Single Entry Points
20 (SEP), Community Centered Boards (CCB), and private case management agencies.

21 Case Manager means an individual employed by a CMA who is qualified to perform the following
22 case management activities: determination of an individual client's functional eligibility for the
23 Home and Community Based Services – Brain Injury (HCBS-BI) waiver, development and
24 implementation of an individualized and person-centered Service Plan for the client, coordination
25 and monitoring of HCBS-BI waiver services delivery, evaluation of service effectiveness, and the
26 periodic reassessment of such client's needs.

27 ~~Certification means documentation from the Colorado Department of Public Health and
28 Environment (CDPHE) certifying that the Supportive Living Program (SLP) provider has met all
29 licensing requirements as a Home Care Agency Class A (HCA) or Assisted Living Residence
30 (ALR), in addition to all requirements in these regulations at 10 CCR 2505-10, § 8.515.85.~~

31 Critical Incident means an actual or alleged event or situation that creates a significant risk of
32 substantial or serious harm to the health or welfare of a client that could have, or has had, a
33 negative impact on the mental and/or physical well-being of a client in the short or long term. A
34 critical incident includes accidents, suspicion of abuse, neglect, or exploitation, and criminal
35 activity.

36 Department means the Department of Health Care Policy and Financing.

37 Health Maintenance Activities means those routine and repetitive health related tasks, which are
38 necessary for health and normal bodily functioning, that an individual with a disability would carry
39 out if he/she were physically able, or that would be carried out by family members or friends if
40 they were available. These activities include, but are not limited to, catheter irrigation,
41 administration of medication, enemas, suppositories, and wound care.

1 Independent Living Skills Training means services designed and directed at the development and
 2 maintenance of the client's ability to independently sustain himself/herself physically, emotionally,
 3 and economically in the community.

4 Instrumental Activities of Daily Living (IADLs) means activities related to independent living,
 5 including preparing meals, managing money, shopping for groceries or personal items,
 6 performing light or heavy housework and communication.

7 Interdisciplinary Team means a group of people responsible for the implementation of a client's
 8 individualized care plan, including the client receiving services, the parent or guardian of a minor,
 9 a guardian or an authorized representative, as appropriate, the person who coordinates the
 10 provision of services and supports, and others as determined by the client's needs and
 11 preferences, who are assembled in a cooperative manner to develop or review the person-
 12 centered care plan.

13 Personal Care Services includes providing assistance with eating, bathing, dressing, personal
 14 hygiene or other activities of daily living. When specified in the service plan, Personal Care
 15 Services may also include housekeeping chores such as bed making, dusting, and vacuuming.
 16 Housekeeping assistance must be incidental to the care furnished or essential to the health and
 17 welfare of the individual rather than for the benefit of the individual's family.

18 Person-Centered Care Plan is a service plan created by a process that is driven by the individual
 19 and can also include people chosen by the individual. It provides necessary information and
 20 support to the individual to ensure that the individual directs the process to the maximum extent
 21 possible. It documents client choice, establishes goals, identifies potential risks, assures health
 22 and safety, and identifies the services and supports the client needs to function safely in the
 23 community.

24 Protective Oversight is defined as monitoring and guidance of a client to assure his/her health,
 25 safety, and well-being. Protective oversight includes, but is not limited to: monitoring the client
 26 while on the premises, monitoring ingestion and reactions to prescribed medications, if
 27 appropriate, reminding the client to carry out activities of daily living, and facilitating medical and
 28 other health appointments. Protective oversight includes the client's choice and ability to travel
 29 and engage independently in the wider community, and providing guidance on safe behavior
 30 while outside the Supportive Living Program.

31 Room and Board is defined as a comprehensive set of services that include lodging, routine or
 32 basic supplies for comfortable living, and nutritional and healthy meals and food for the client, all
 33 of which are provided by the Supportive Living Program provider, and are not included in the per
 34 diem.

35 SLP certification means documentation from the Colorado Department of Public Health and
 36 Environment (CDPHE) recommending certification to HCPF that after the Supportive Living
 37 Program (SLP) provider has met all licensing requirements as an Assisted Living Residence
 38 (ALR), in addition to all requirements in these regulations at 10 CCR 2505-10, § 8.515.85.

39 8.515.85.B CLIENT ELIGIBILITY

40 1. Supportive Living Program services are available to individuals who meet all of
 41 the following requirements:

42 a. Clients are determined functionally eligible for Home and Community
 43 Based Services Brain Injury waiver by a certified case management
 44 agency;

- 1 b. Clients are enrolled in the Home and Community Based Services Brain
2 Injury waiver; and
- 3 c. Clients require the specialized services provided under the Supportive
4 Living Program as determined by assessed need.

5 8.515.85.C SUPPORTIVE LIVING PROGRAM INCLUSIONS

- 6 1. Supportive Living Program services consist of structured services designed to
7 provide:
- 8 a. Assessment;
- 9 b. Protective Oversight and supervision;
- 10 c. Behavioral Management and Education;
- 11 d. Independent Living Skills Training in a group or individualized setting to
12 support:
- 13 i. Interpersonal and social skill development;
- 14 ii. Improved household management skills; and
- 15 iii. Other skills necessary to support maximum independence, such
16 as financial management, household maintenance, recreational
17 activities and outings, and other skills related to fostering
18 independence;
- 19 e. Community Participation;
- 20 f. Transportation between therapeutic activities in the community;
- 21 g. Activities of Daily Living (ADLs);
- 22 h. Personal Care and Homemaker services; and
- 23 i. Health Maintenance Activities.

24 2. Person-Centered Care Planning

25 Supportive Living Program providers must abide by the Person-Centered Care
26 Planning process. Providers will work with Case Management Agencies to
27 ensure coordination of a client's Person-Centered Care Plan. Additionally,
28 Supportive Living Program providers must provide the following actionable plans
29 for all HCBS-BI waiver clients updated every six (6) months:

- 30 a. Transition Planning; and
- 31 b. Goal Planning.

32 These elements of a Person-Centered Care Plan are intended to ensure the
33 client actively engages in his or her care and activities as well as ensure he or
34 she is able to transition to any other type of setting or service at any given time.

- 1 3. Exclusions
- 2 The following are not included as components of the Supportive Living Program:
- 3 a. Room and board; and
- 4 b. Additional services which are available as a State Plan benefit or other
- 5 HCBS-BI waiver service. Examples include, but are not limited to:
- 6 physician visits, mental health counseling, substance abuse counseling,
- 7 specialized medical equipment and supplies, physical therapy,
- 8 occupational therapy, long term home health, and private duty nursing.
- 9 8.515.85.D PROVIDER LICENSING AND CERTIFICATION REQUIREMENTS
- 10 1. Supportive Living Program providers shall be licensed by CDPHE as an Assisted
- 11 Living Residence (ALR) pursuant to 6 CCR 1011-1, Ch. 7, ~~or as a Home Care~~
- 12 ~~Agency Class A (HCA) pursuant to 6 CCR 1011-1, Ch. 26. Providers~~
- 13 ~~participating in the Supportive Living Program as of December 1, 2014, must fully~~
- 14 ~~comply with these regulations at 10 CCR 2505-10, § 8.515.85, no later than~~
- 15 ~~January 1, 2016.~~
- 16 a. ~~Providers that provided and billed SLP services prior to December 31,~~
- 17 ~~2014, either licensed by CDPHE as an Assisted Living Residence (ALR)~~
- 18 ~~pursuant to 6 CCR 1011-1, Ch. 7,- as a Home Care Agency Class A~~
- 19 ~~(HCA) pursuant to 6 CCR 1011-1, Ch. 26, or under another certification~~
- 20 ~~approved by the Department shall be considered existing providers.~~
- 21 b. ~~Existing providers not fully in compliance with the requirements of §~~
- 22 ~~8.515.85.D or § 8.515.85.I may continue to provide services under a~~
- 23 ~~request for exception and plan for compliance approved by the~~
- 24 ~~Department until they become fully compliant. Existing providers shall~~
- 25 ~~submit a renewal request for exception and plan of compliance to the~~
- 26 ~~Department each year for review and approval.~~
- 27 i. ~~Existing providers must show coordination with CDPHE and the~~
- 28 ~~Colorado Division of Fire Prevention & Control (DFPC) and their~~
- 29 ~~approval of progress with a plan of compliance with this request.~~
- 30 ~~The Department shall coordinate with CDPHE and DFPC in the~~
- 31 ~~application of regulatory requirements of both license and~~
- 32 ~~certification requirements.~~
- 33 2. In addition to the requirements of § 8.515.85.D.1, Supportive Living Program
- 34 providers must also receive ~~annual SLP~~ Certification by CDPHE. CDPHE issues
- 35 or renews a Certification when the provider is in full compliance with the
- 36 requirements set out in these regulations. Certification is valid for ~~one three~~ years
- 37 from the date of issuance unless voluntarily relinquished by the provider,
- 38 revoked, suspended, or otherwise sanctioned pursuant to these regulations.
- 39 3. No Certification shall be issued or renewed by CDPHE if the owner, applicant, or
- 40 administrator of the Supportive Living Program has been convicted of a felony or
- 41 of a misdemeanor involving moral turpitude as defined by law or involving
- 42 conduct that CDPHE determines could pose a risk to the health, safety, and
- 43 welfare of clients.

1 4. In addition to meeting the requirements of this section, Supportive Living
 2 Program providers shall be licensed in accordance with C.R.S. §§ 25-1.5-103
 3 (2013) and 25-3-101, et seq. (2013). ~~Supportive Living Program providers who~~
 4 ~~are Home Care Agencies shall be licensed in accordance with C.R.S. § 25-27.5-~~
 5 ~~101, et seq. (Aug. 5, 2013)~~ Supportive Living Program providers who are
 6 Assisted Living Residences shall be licensed in accordance with C.R.S. § 25-27-
 7 101, et seq. (Jul. 1, 2013). These statutes are hereby incorporated by reference.
 8 The incorporation of these statutes excludes later amendments to, or editions of
 9 the referenced material. Pursuant to C.R.S. § 24-4-103(12.5), the Department
 10 maintains copies of this incorporated text in its entirety, available for public
 11 inspection during regular business hours at 1570 Grant Street, Denver, CO,
 12 80203. Certified copies of incorporated materials are provided at cost upon
 13 request.

14 5. CDPHE may deny, suspend, revoke, or not renew the Certification of any
 15 Supportive Living Program provider who is out of compliance with the
 16 requirements of these regulations. Providers may appeal this process pursuant to
 17 the State Administrative Procedure Act, C.R.S. § 24-4-101, et seq. (2013).

18 8.515.85.E PROVIDER RESPONSIBILITIES

19 Supportive Living Program providers must follow all person-centered planning initiatives
 20 undertaken by the State to ensure client choice.

21 8.515.85.F HCBS PROGRAM CRITERIA

22 1. All HCBS Program Criteria must be fully implemented in accordance with the
 23 final Department transition plan for compliance with federal Home and
 24 Community-Based Settings requirements. The federal regulations can be found
 25 at 42 C.F.R., Chapter IV, Parts 430, 431, 435, 436, 440, 441, and 447 (Mar. 17,
 26 2014), which are hereby incorporated by reference. The incorporation of these
 27 regulations excludes later amendments to, or editions of the referenced material.
 28 Pursuant to C.R.S. § 24-4-103(12.5), the Department maintains copies of this
 29 incorporated text in its entirety, available for public inspection during regular
 30 business hours at 1570 Grant Street, Denver, CO, 80203. Certified copies of
 31 incorporated materials are provided at cost upon request.

32 The following will be used to establish program criteria for Supportive Living
 33 Program providers in establishing a home-like environment pursuant to 42 C.F.R.
 34 § 440.180. In accordance with 42 C.F.R. § 441.301, the setting must:

- 35 a. Be integrated in and support full access to the greater community;
- 36 b. Be selected by the client from among setting options;
- 37 c. Ensure client rights of privacy, dignity, and respect, and freedom from
 38 coercion and restraint;
- 39 d. Optimize individual initiative, autonomy, and independence in making life
 40 choices;
- 41 e. Facilitate client choice regarding services and supports, and who
 42 provides them;

- 1 f. Put in place a lease or other written agreement providing similar
2 protections for the client that addresses eviction processes and appeals;
- 3 g. Ensure privacy in the client's unit including lockable doors, choice of
4 roommates, and freedom to furnish or decorate the unit;
- 5 h. Ensure that clients have the freedom and support to control their own
6 schedules and activities, and have access to food at any time;
- 7 i. Each client shall have the right to receive and send packages. No client's
8 outgoing packages shall be opened, delayed, held, or censored by any
9 person;
- 10 j. Each client has the right to receive and send sealed, unopened
11 correspondence. No client's incoming or outgoing correspondence shall
12 be opened, delayed, held, or censored by any person;
- 13 k. Enable clients to have visitors of their choosing at any time; and
- 14 l. Be physically accessible.
- 15 2. The provider must ensure adherence to all state assurances set forth at 42
16 C.F.R. § 441.302 (Jan. 16, 2014), which is hereby incorporated by reference.
17 The incorporation of these regulations excludes later amendments to, or editions
18 of the referenced material. Pursuant to C.R.S. § 24-4-103(12.5), the Department
19 maintains copies of this incorporated text in its entirety, available for public
20 inspection during regular business hours at 1570 Grant Street, Denver, CO,
21 80203. Certified copies of incorporated materials are provided at cost upon
22 request.
- 23 3. Exceptions
- 24 Exceptions exist to the aforementioned HCBS Program Criteria listed in Section
25 8.515.85.F.1 of this rule when clear rationale and reasoning exist and is
26 supported by appropriate documentation. These exceptions are for the
27 corresponding sections in Section 8.515.85.F.1 of this rule, and are as follows:
- 28 a. HCBS Program Criteria under 8.515.85.F.1, a through k:
- 29 Requirements of program criteria may be modified if supported by a specific
30 assessed need and justified and agreed to in the person-centered care plan
31 pursuant to 42 C.F.R. § 441.302 (Jan. 16, 2014). The following requirements
32 must be documented in the person-centered care plan:
- 33 i. Identify a specific and individualized assessed need.
- 34 ii. Document the positive interventions and supports used prior to
35 any modifications to the person-centered care plan.
- 36 iii. Document less intrusive methods of meeting the need that have
37 been tried but did not work.
- 38 iv. Include a clear description of the modification that is directly
39 proportionate to the specific assessed need.

- 1 v. Include regular collection and review of data to measure the
2 ongoing effectiveness of the modification.
- 3 vi. Include established time limits for periodic reviews to determine if
4 the modification is still necessary or can be terminated.
- 5 vii. Include the informed consent of the individual.
- 6 viii. Include an assurance that interventions and supports will cause
7 no harm to the individual.
- 8 b. HCBS Program Criteria under 8.515.85.F.1.b and e:
- 9 i. When a client chooses to receive Home and Community-Based
10 Services in a provider-owned or controlled setting where the
11 provider is paid a single rate to provide a bundle of services, the
12 client cannot choose an alternative provider to deliver services
13 that are included in the bundled rate.
- 14 ii. For any services that are not included in the bundled rate, the
15 client may choose any qualified provider, including the provider
16 who controls or owns the setting if the provider offers the service
17 separate from the bundle.
- 18 iii. To illustrate these HCBS Program Criteria b and e requirements
19 by way of example, if a program provides habilitation connected
20 with daily living and on-site supervision under a bundled rate, an
21 individual is choosing the residential provider for those two
22 services when he or she chooses the residence. The individual
23 has free choice of providers for any other services in his or her
24 service plan, such as therapies, home health or counseling.
- 25 c. HCBS Program Criteria under 8.515.85.F.1.c:
- 26 When a client needs assistance with challenging behavior, including a client
27 whose behavior is dangerous to himself, herself, or others, or when the client
28 engages in behavior that results in significant property destruction, the
29 Supportive Living Program must properly create service and support plans
30 detailing plans to appropriately address these behaviors.
- 31 d. HCBS Program Criteria under 8.515.85.F.1.g:
- 32 Requirements for a lockable entrance door may be modified if supported by a
33 specific assessed need and justified and agreed to in the person-centered
34 service plan pursuant to 42 C.F.R. § 441.302 (Jan. 16, 2014), which is hereby
35 incorporated by reference. The incorporation of this regulation excludes later
36 amendments to, or editions of the referenced material. Pursuant to C.R.S. § 24-
37 4-103(12.5), the Department maintains copies of this incorporated text in its
38 entirety, available for public inspection during regular business hours at 1570
39 Grant Street, Denver, CO, 80203. Certified copies of incorporated materials are
40 provided at cost upon request.

41 8.515.85.G STAFFING

- 1 1. The Supportive Living Program provider shall ensure sufficient staffing levels to
2 meet the needs of clients, and shall meet all other staffing requirements pursuant
3 to 6 CCR 1011-1, Ch. 7, § 1.104(4)(a) , which states the following:
- 4 a. The owner shall employ sufficient staff to ensure the provision of
5 services necessary to meet the needs of the residents; and
- 6 b. In determining staffing, the facility shall give consideration to factors
7 including but not limited to:
- 8 i. Services to meet the residents' needs,
9 ii. Services to be provided under the care plan, and
10 iii. Services to be provided under the resident agreement.
- 11 c. Each facility shall ensure that at least one staff member who has the
12 qualifications and training listed under Sections 1.104(3)(e) and (f), and
13 who shall be at least 18 years of age, is present in the facility when one
14 or more residents is present. These regulations are hereby incorporated
15 by reference. The incorporation of these regulations exclude later
16 amendments to, or editions of the referenced material. Pursuant to
17 C.R.S. § 24-4-103(12.5), the Department maintains copies of this
18 incorporated text in its entirety, available for public inspection during
19 regular business hours at 1570 Grant Street, Denver, CO, 80203.
20 Certified copies of incorporated materials are provided at cost upon
21 request.
- 22 In addition to these regulations, staff should be trained in how to work with an
23 individual or individuals in difficult situations that may arise in the course of their
24 work.
- 25 2. The operator, staff, and volunteers who provide direct client care or protective
26 oversight must be trained in relevant precautions and emergency procedures,
27 including first aid, to ensure the safety of the clientele. The SLP provider shall
28 adhere to all other regulations pursuant to 6 CCR 1011-1, Ch. 7, §§ 1.103(8) and
29 § 1.104(1)-(2) ([Aug. 14, 2013](#)), which are hereby incorporated by reference. The
30 incorporation of this regulation excludes later amendments to, or editions of the
31 referenced material. Pursuant to C.R.S. § 24-4-103(12.5), the Department
32 maintains copies of this incorporated text in its entirety, available for public
33 inspection during regular business hours at 1570 Grant Street, Denver, CO,
34 80203. Certified copies of incorporated materials are provided at cost upon
35 request.
- 36 3. Within one month of the date of hire, the Supportive Living Program provider
37 shall provide adequate training for staff on each of the following topics:
- 38 a. Crisis prevention;
39 b. Identifying and dealing with difficult situations;
40 c. Cultural competency;
41 d. Infection control; and

- 1 e. Grievance and complaint procedures.
- 2 4. Prior to providing direct care, the Supportive Living Program provider shall
3 provide to the operator, staff, and volunteers an orientation of the location in
4 which the program operates and adequate training on person-centered care
5 planning.
- 6 5. All staff training shall be documented. Copies of person-centered care plan
7 training and related documentation must be submitted to the Department. Copies
8 must also be submitted for inspection and approval upon changing the training
9 curriculum.
- 10 6. In addition to the relevant requirements imposed by CDPHE in 6 CCR 1011-1
11 Ch. 7 on Assisted Living Residence ~~and 6 CCR 1011-1 Ch. 26 on Home Care~~
12 ~~Agencies~~, the Department requires that the program director shall have an
13 advanced degree in a health or human service related profession plus two years
14 of experience providing direct services to persons with a brain injury. A
15 bachelor's or nursing degree with three years of similar experience or a
16 combination of education and experience shall be an acceptable substitute.
- 17 7. The provider shall employ or contract for behavioral services and skill training
18 services according to client needs.
- 19 8. The Supportive Living Program provider shall employ staff qualified by education,
20 training, and experience according to orientation and training requirements
21 indicated within 10 CCR 2505-10, § 8.525.85.G. The Supportive Living Program
22 shall have staff on duty as necessary to meet the needs of clients at all times, so
23 that provision of services is not dependent upon the use of clients to perform staff
24 functions. Volunteers may be utilized in the home but shall not be included in the
25 provider's staffing plan in lieu of employees.
- 26 9. The Supportive Living Program provider shall have written personnel policies.
27 Each staff member shall be provided a copy upon employment and the
28 administrator or designee shall explain such policies during the initial staff
29 orientation period.
- 30 10. All Supportive Living Program provider staff, prospective staff, and volunteers
31 shall undergo a criminal background check through the Colorado Bureau of
32 Investigation. Any person convicted of an offense that could pose a risk to the
33 health, safety, and welfare of clients shall not be employed by the provider. If the
34 provider or prospective staff disagree with assessment of risk they are allowed to
35 appeal the decision to the Department. All costs related to obtaining a criminal
36 background check shall be borne by the provider.

37 8.515.85.H CLIENT RIGHTS AND PROPERTY

- 38 1. Clients shall have all rights stated in 10 CCR 2505-10 § 8.515.85.F.1, (HCBS
39 Program Criteria) and in accordance with 42 C.F.R. § 441.301 (Jan. 16, 2014),
40 which is hereby incorporated by reference. The incorporation of this regulation
41 excludes later amendments to, or editions of the referenced material. Pursuant to
42 C.R.S. § 24-4-103(12.5), the Department maintains copies of this incorporated
43 text in its entirety, available for public inspection during regular business hours at
44 1570 Grant Street, Denver, CO, 80203. Certified copies of incorporated materials
45 are provided at cost upon request.

- 1 2. The provider shall have policies on management of client funds and property
2 consistent with those at 6 CCR 1011-1 Ch. 7, §1.105(3), which states the
3 following:
 - 4 a. A facility may enter into a written agreement with the resident or
5 resident's legal representative for the management of a resident's funds
6 or property. However, there shall be no requirement for the facility to
7 handle resident funds or property.
 - 8 i. Written Agreement. A resident or the resident's legal
9 representative may authorize the owner to handle the resident's
10 personal funds or property. Such authorization shall be in writing
11 and witnessed and shall specify the financial management
12 services to be performed.
 - 13 ii. Fiduciary Responsibility. In the event that a written agreement for
14 financial management services is entered into, the facility shall
15 exercise fiduciary responsibility for these funds and property,
16 including, but not limited to, maintaining any funds over the
17 amount of five hundred dollars (\$500) in an interest bearing
18 account, separate from the general operating fund of the facility,
19 which interest shall accrue to the resident.
 - 20 iii. Surety Bond. Facilities which accept responsibility for residents'
21 personal funds shall post a surety bond in an amount sufficient to
22 protect the residents' personal funds.
 - 23 iv. Accounting.
 - 24 1) A running account, dated and in ink, shall be maintained
25 of all financial transactions. There shall be at least a
26 quarterly accounting provided to the resident or legal
27 representative itemizing in writing all transactions
28 including at least the following: the date on which any
29 money was received from or disbursed to the resident;
30 any and all deductions for room and board and other
31 expenses; any advancements to the resident; and the
32 balance.
 - 33 2) An account shall begin with the date of the first handling
34 of the personal funds of the resident and shall be kept on
35 file for at least three years following termination of the
36 resident's stay in the facility. Such record shall be
37 available for inspection by the Department.
 - 38 v. Receipts. Residents shall receive a receipt for and sign to
39 acknowledge disbursed funds.
 - 40 3. Upon client request, a client shall be entitled to receive available money or funds
41 held in trust.

- 1 1. Applicants for initial provider Certification shall meet the applicable standards of
2 the rules for building, fire, and life safety code enforcement as adopted by the
3 ~~Colorado Division Of Fire Prevention & DFPC Control~~, in accordance with 8 CCR
4 1507-31 (Aug. 26, 2013), which is hereby incorporated by reference. The
5 incorporation of these regulations excludes later amendments to, or editions of
6 the referenced material. Pursuant to C.R.S. § 24-4-103(12.5), the Department
7 maintains copies of this incorporated text in its entirety, available for public
8 inspection during regular business hours at 1570 Grant Street, Denver, CO,
9 80203. Certified copies of incorporated materials are provided at cost upon
10 request.
- 11 2. Existing ~~Supportive Living Program SLP~~ providers ~~with a Certification in effect as~~
12 ~~defined at 10 CCR 2505-10, § 8.515.85.D.1 prior to December 31st, 2014,~~ may
13 continue, ~~through the use of a Department-approved exception as defined in 10~~
14 ~~CCR 2505-10, § 8.515.85.D.1.b,~~ to utilize existing ~~approved~~ fire safety systems
15 ~~approved by the local fire authority having jurisdiction provided they remain until~~
16 ~~??/??/?? or they demonstrate in compliance with 8 CCR 1507-31 provided they~~
17 ~~remain in compliance with the following:~~
- 18 a. There is ~~these fire safety systems as verified by the Department of Fire~~
19 ~~Control and Prevention (DFCP), and provided there is~~ no change in evacuation
20 status of a client,
- 21 b. nor a client admission or discharge that alters the residence overall fire
22 safety rating, ~~and provided~~
- 23 c. no renovation of 25 percent or greater to the total interior of the physical
24 plant is performed.
- 25 d. If such a change, admission, discharge or renovation occurs, the home
26 shall be required to meet the applicable standards referenced in 10 CCR
27 2505-10 § 8.515.85.I.1.
- 28
- 29 3. Providers shall develop written emergency plans and procedures for fire, serious
30 illness, severe weather, disruption of essential utility services, and missing
31 persons for each client. Emergency and evacuation procedures shall be
32 consistent with any relevant local and state fire and life safety codes and the
33 provisions set forth in 6 CCR 1011-1 Ch. 7, §1.104(5)(b) and (c), which state the
34 following:
- 35 a. Emergency plan. The emergency plan shall include planned responses
36 to fire, gas explosion, bomb threat, power outages, and tornadoes. Such
37 plan shall include provisions for alternate housing in the event
38 evacuation is necessary.
- 39 b. Disclosure to residents. Within three (3) days of admission, the plan shall
40 be explained to each resident or legal representative, as appropriate.
- 41 c. The policy shall describe the procedures to be followed by the facility in
42 the event of serious illness, serious injury, or death of a resident.

1 d. The policy shall include a requirement that the facility notify an
2 emergency contact when the resident's injury or illness warrants medical
3 treatment or face-to-face medical evaluation. In the case of an
4 emergency room visit or unscheduled hospitalization, a facility must
5 notify an emergency contact immediately, or as soon as practicable.

6 4. Within three (3) days of scheduled work or commencement of volunteer service,
7 the program shall provide adequate training for staff in emergency and fire
8 escape plan procedures.

9 5. Staff and clients shall have training on, and practices of, emergency plans and
10 procedures, in addition to fire drills, at intervals throughout the year. There shall
11 be at least two fire drills conducted annually during the evening and overnight
12 hours while clients are sleeping. All such practices and training shall be
13 documented and reviewed every six (6) months. Such documentation shall
14 include any difficulties encountered and any needed adaptations to the plan.
15 Such adaptations shall be implemented immediately upon identification.

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