Stakeholder Comment Summary

MSB 10 C.C.R. 2505-10 8.493

Revision to the Medical Assistance Home and Community Based Services for Persons with Brain Injury Rule Concerning Independent Living Skills Training (ILST), Section 8.516.10

THE FOLLOWING INDIVIDUALS AND/OR ENTITIES WERE CONTACTED, INFORMED THAT THIS RULE MAKING WAS PROPOSED, INVITED TO DISCUSS THE PROPOSED RULE WITH STAFF AND/OR TO OFFER COMMENTS:

LTSS STAKEHOLDERS, THE BRAIN INJURY SERVICE DESIGN WORKGROUP, THE BRAIN INJURY SUPPORTIVE LIVING WORKGROUP, THE BRAIN INJURY ILST REDESIGN WORKGROUP, AND THE BRAIN INJURY STAKEHOLDER WORKGROUP.

COMMENTS WERE RECEIVED FROM STAKEHOLDERS ON THE PROPOSED RULE:

☐ YES ☒ NO

IF YES, PLEASE SUMMARIZE AND/OR ATTACH THE FEEDBACK YOU RECEIVED.

Title of Rule:	Revision to the Medical Assistance Home and Community Based Services for Persons with Brain Injury Rule Concerning Independent Living Skills Training (ILST), Section 8.516.10
Rule Number:	MSB 15-02-09-A
Division / Contact / Phone:	Long Term Services and Supports / Colin Laughlin / x2549

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 Section 8.516.10 are being revised include better service definitions for the Independent Living Skills Training program. Additional it clarifies many different aspects that have never been specified before. Lastly it eases restrictions on providers and should allow for additional coverage in more rural areas of the State.

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. (2013);
   C.R.S. 25.5-6-704

Initial Review	**08/14/2015**	Final Adoption	**09/11/2015**
Proposed Effective Date	**01/11/2015**	Emergency Adoption	

DOCUMENT #06

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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.

   Clients in the Brain Injury waiver will now have a service that is better defined and illustrate exactly what the service should be providing. Additionally, data shows there are only 2 providers that are located in the Denver Metro area, with zero providers throughout the rest of the state. This issue will be solved by reducing licensure requirements from a Home Care License Class A to a Class B. All stakeholders directly involved in this process will benefit from the proposed rule, specifically clients and providers.

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

   Clients will now have broader access to this service. Additionally providers, clients, and family members will now have a better understanding of what the service entails and the intent and purpose the program.

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.

   With the removal of burdensome licensing requirements, there may be more providers that now provide this service which would lead to an increase of utilization.

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

   The costs and benefits of changing this rule greatly outweigh continued inaction on several levels. In addition to creating clear definitions of service, it also removes burdensome licensing requirements. If this rule is not moved forward, individuals on the Brain Injury Waiver will be unable to receive a service that is specifically designed and created based on their needs. The waiver will eventually become another generic adult disability waiver with little to no specificity regarding the provision of services in the community to individuals with a brain injury. This will inevitably cause more and more individuals to seek out services in a more expensive residential-type setting.

   There exists a probability of an increase in utilization (and therefore cost) but the overall benefit of undergoing these changes far outweighs any small fiscal impact these changes may bring about.

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

   There are no less costly or intrusive methods based on almost two years of working with clients, stakeholders, providers, and other Departments.

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.

   There were several alternative measures considered but all created additional issues regarding licensing and/or service definition that did not truly solve the problem. This rule change and tweak in licensing requirements is the best way to solve the issues associated with this program.

8.516.10 INDEPENDENT LIVING SKILLS TRAINING

A. DEFINITIONS

1. ~~1.~~ Independent Living Skills Training ~~and Development~~(ILST) means services designed and directed at the development and maintenance of the program participant's ability to independently sustain himself/herself physically, emotionally, and economically in the community. ILST be provided in the client's residence, in the community, or in a group living situation.

2. Skills Trainers are individuals trained in accordance with guidelines listed below tasked with providing the service inclusions to the program participant.

~~1.~~3. Person-Centered Care Plan is a ~~service~~ plan of care created by a process that is driven by the individual and can also include people chosen by the individual, as well as the appropriate health care professional and the designated independent living skills trainer(s). It provides necessary information and support to the individual to ensure that the individual directs the process to the maximum extent possible. It documents client choice, establishes goals, identifies potential risks, assures health and safety, and identifies the services and supports the client needs to function safely in the community.

~~2. 2. Skills training may be provided in the client's residence, in the community or in a group living situation.~~

B. INCLUSIONS

1. ~~1.~~ Reimbursable ~~S~~services ~~may include~~are limited to the assessment, training, maintenance, ~~and~~ supervision, ~~or~~ assistance, or continued supports ~~to an individual with~~of the following skills:

a. ~~to an individual with s~~Self-care, including but not limited to basic personal hygiene;

b. ~~medication~~ Medication supervision and reminders;

c. Household management;

d. Time management skills training;

e. Safety awareness skill development and training;

f. ~~, t~~Task completion skill development and training;~~,~~

g. ~~communication~~ Communication skill building~~,~~;

h. ~~interpersonal~~ Interpersonal skill development~~,~~;

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i. ~~socialization~~Socialization, including but not limited to acquiring and developing appropriate social norms, values, and skills;

j. ~~therapeutic~~ ~~R~~recreation, including leisure and community integration activities;

k. ~~sensory~~ Sensory motor skill~~s~~ development;

l. Reduction or elimination of maladaptive behaviors;~~,~~

m. Benefits coordination, including activities related to the coordination of Medicaid services;

n. Resource coordination, including activities related to coordination of ~~mobility or~~ community transportation ~~training~~, ~~reduction or elimination of maladaptive behaviors,~~ community meetings, neighborhood resources, and other available public and private resources;

o. Financial management, including activities related to the coordination~~problem solving skill development, benefits coordination, resource coordination,~~ of financial management tasks such as paying bills, balancing accounts, and basic budgeting~~, and household management.~~.

~~1.~~2. All Independent Living Skills Training shall be documented in the person-centered care plan. Reimbursement is limited to services described in the person-centered care plan.

~~2. All independent living skills training and development shall be documented in the plan of care.~~

~~3. Independent Living Skills trainers must be supervised on a monthly basis by a fully licensed or certified occupational therapist, registered nurse, physical therapist, or speech therapist who has experience in the field of brain injury rehabilitation.~~

C. PROVIDER CERTIFICATION STANDARDS

1. Provider agencies must have valid licensure and certification as well as appropriate professional oversight.

a. Agencies seeking to provide ILST services must have a valid Home Care Agency, Class A or B license from the Department of Public Health and Environment.

b. Oversight and monitoring of ILST services and ILST service plans, which are part of the person-centered care plans, ~~a specific service-plan and part of the overall person-centered care plan,~~ must be conducted by the appropriate professional to

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meet the needs of the client. These professionals must be in good standing as one of the following:

i. ~~All ILST services indicated within 8.516.10.B must be documented, approved, and overseen every 6 months by individuals, in good professional standing, who are fully licensed as an o~~Occupational therapist;~~,~~

ii. Physical therapist;

iii. ~~r~~Registered nurse;~~,~~

iv. ~~physical therapist, or s~~Speech therapist;

v. Psychologist;

vi. Neuropsychologist;

vii. Medical doctor, including a neurologist;

viii. ~~who has experience in the field of brain injury rehabilitation~~Licensed professional counselor~~.~~.

c. Professionals ~~oversight of ILST agencies~~providing oversight can include individuals who are members of agency staff, contracted staff, or independent licensed and certified professionals who are fully aware of duties conducted by ILST trainers.

d. All ILST service plans must be reviewed and authorized by sign-off every 6 months by professional's responsible for oversight as referenced in 8.516.10.C.b.i-viii.

~~All plans must be officially certified and renewed every 6 months.~~

~~Oversight of ILST services must be conducted by the appropriate professional to meet the needs of the client.~~

2. Skills trainers must meet one of the following education, experience, or certification requirements:

a. Certified health care professionals with experience in providing functionally based assessments and skills training for individuals with disabilities; or

b. Individuals with a Bachelor's degree and one year of experience working with individuals with disabilities; or

c. Individuals with an Associate's degree in a social service or human relations area and two years of experience working with individuals with disabilities; or

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d. Individuals currently enrolled in a degree program directly related to but not limited to special education, occupational therapy, therapeutic recreation, and/or teaching with at least 3 years of experience providing services similar to ILST services; or

e. Individuals with 4 years direct care experience teaching or working with individuals with a brain injury or other cognitive disability either in a home setting, hospital setting, or rehabilitation setting.

3. The agency shall administer a series of training programs to all skills trainers.

a. P~~p~~rior to delivery of and reimbursement for any services,~~. T~~ ~~these programs shallmust consist of~~skills trainers must complete the following trainings:

i. Person-centered care plan training; and

ii. HIPAA and client confidentiality; and

iii. Basics of brain injury including basic neurophysiology as offered through Department recognized entities; and

iv. On-the-job coaching by an incumbent skills trainer; and

v. Basic safety and de-escalation techniques; and

vi. Training on community and public resource availability; and

vii. Understanding of current brain injury recovery guidelines; and

viii. First aid.

b. Skills t~~T~~rainers must also receive ongoing training in the following areas:

i. Cultural awareness; and

ii. Updates on brain injury recovery guidelines; and

iii. Updates on resource availability.

~~1. 1. Providers shall be a health care professional with one year of experience in providing functionally based assessment and skills training of individuals with disabilities, or an individual with a bachelors degree and two years of similar experiences, or an individual with an AA degree in a social service or human relations area with 3 years of experience.~~

~~2. 2. All skills trainers must receive monthly supervision from a licensed or certified health care provider as listed above. Supervision of independent living~~

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~~skills trainers shall not be billable as an additional expense to Medicaid but shall be absorbed by the provider as an overhead expense of business.~~

~~3. 3. Providers shall develop and administer a training program to all skills trainers which focuses on the specific needs of individuals with brain injury and demonstrates the completion of a 24 hour training program prior to the delivering of services.~~

D. REIMBURSEMENT

~~1. 1. 1. All independent living skills training must be documented in the plan of care. Monthly treatment plans shall include the goals of the treatment plan, goals met or accomplished, and progress made toward accomplishment of ongoing goals. All plans are subject to review of the Brain Injury Program Coordinator.~~

~~2.~~ Reimbursement shall be on an hourly basis. Payment may include travel time to and from the client's residence, to be billed under the same procedure code and rate as independent living services. The time billed for travel shall be listed separately from the time for service provision on each visit but must be documented on the same form. ~~Travel time must be summed for the week and then rounded to the nearest hour for billing purposes. If the travel time to and from a client's residence is 15 minutes one-way, 30 minutes round trip, then the travel time for one week shall be 210 minutes (rounded up to 4 hours) for the week.~~ Travel time to one client's residence may not also be billed as travel time from another client's residence, as this would represent duplicate billing for the same time period.

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