Title of Rule: Revision to the Medical Assistance Home and Community Based Services for Elderly Blind and Disabled Rule Concerning Alternative Care Facilities Section 8.495
Rule Number: MSB 18-05-25-B
Division / Contact / Phone: Benefits and Services Division / Cassandra Keller / 866-5181

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 intention of this rule is to ensure providers meet both State and Federal guidelines for critical incident reporting, care planning, and the HCBS Final Settings Rule. The new regulations will make clear the new requirements for the providers. This will help to ensure the Department is in compliance with federal regulations, as well as better align regulations with our sister agencies. That collaboration will lead to improved oversight of Alternative Care Facilities as well as more comprehensive inspections by the Department of Public Health and Environment (DPHE).

   Additionally, the revised criteria for food safety regulations and and updated language and clarification throughout will provide more comprehensive regulations and safer settings for the HCBS waiver participants and clarity for providers.

   The Department has worked extensively with stakeholders throughout the revision process, including suggestions from them throughout. Stakeholders include LeadingAge, CALA, providers, case managers, participants, and DPHE. DPHE has done an extensive review of the revisions and made changes where necessary.

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:

4. State Authority for the Rule:

   25.5-1-301 through 25.5-1-303, C.R.S. (2017);
   25.5-6-313(1) C.R.S.

Initial Review	**07/13/18**	Final Adoption	**08/10/18**
Proposed Effective Date	**09/30/18**	Emergency Adoption	

DOCUMENT #07

Title of Rule: Revision to the Medical Assistance Home and Community Based Services for Elderly Blind and Disabled Rule Concerning Alternative Care Facilities Section 8.495
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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.

   Individuals who will be affected by this rule are individuals who reside in Alternative Care Facilities on the EBD and CMHS waivers. They will benefit from this rule change due to improved critical incident reporting; care planning requirements; HCBS Final Settings Rule requirements; food safety regulations; and updated language and clarification throughout. They will not bear any cost from this rule change. Alternative Care Facilities may have a slight additional administrative burden, but the Department does not anticipate the providers bearing any additional costs.

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

   All EBD and CMHS waiver clients who reside in Alternative Care Facilities will benefit from the new requirements and additional oversight it will bring to 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.

   There will not be a cost increase to the Department.

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

   The clarification to the Alternative Care Facility rule will significantly benefit participants, which outweighs any additional administrative burdens on the part of the Facilities.

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

   The additional requirements in the proposed regulations are required by CMS and must be implemented. The additional regulations and clarifications will require minimal additional output from the Department.

Title of Rule: Revision to the Medical Assistance Home and Community Based Services for Elderly Blind and Disabled Rule Concerning Alternative Care Facilities Section 8.495
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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.

   No alternative methods were considered.

8.495 ALTERNATIVE CARE FACILITIES ~~[Eff. 03/30/2009]~~

8.495.1 DEFINITIONS

Alternative Care Facility (ACF) ~~as defined~~ authorized in ~~C.R.S. section~~ 25.5-6-303(3), C.R.S., ~~-~~means an Assisted Living Residence as defined at 6 CCR 1011-1, Chapter VII, Section 2~~1.102~~, which has been licensed by the Colorado Department of Public Health and Environment (CDPHE)~~, pursuant to certification~~ and has been certified by the Department to provide Alternative Care Services and Protective Oversight to Medicaid~~-~~ participants~~clients~~.

Alternative Care Services as described ~~defined~~ in ~~C.R.S. section~~ 25.5-6-303(4), C.R.S., means, but is not limited to, a package of personal care and homemaker services provided in a state licensed and ~~-~~certified alternative care facility including: assistance with bathing, skin, hair, nail and mouth care, shaving, dressing, feeding, ambulation, transfers, ~~and~~ positioning, bladder & bowel care, medication reminding and monitoring, accompanying, routine housecleaning, meal preparation, bed making, laundry, and shopping.

Care Plan means the individualized goal-oriented plan of services, supports, and preferences developed collaboratively with the participant and the service provider, as outlined in 6 CCR 1011-1, Chapter VII, Section 2 and 10 CCR 2505-10, Section 8.495.6.F.

~~Life Skills Training means services designed and directed at the development and maintenance of the resident's ability to independently sustain himself/herself physically, emotionally, and economically in the community.~~

Medication Administration as ~~defined~~ described in ~~C.R.S. section~~ 25-1.5-301, C.R.S., means assisting a participant with taking medications~~person in the ingestion, application, inhalation, or, using universal precautions, rectal or vaginal insertion of medication, including prescription drugs,~~ while using standard healthcare precautions, according to the legibly written or printed ~~directions of the~~ order of an attending physician or other authorized practitioner. Medication administration may include assistance with ingestion, application, inhalation, and rectal or vaginal insertion of medication, including prescription drugs. Provider must document and keep record of ~~or as written on the prescription label and making a written record thereof with regard to~~ each medication administered, including the time and the amount taken~~., but~~ "Aadministration" does not include judgment, evaluation, assessment, or the injections of medication, the monitoring of medication, or the self-administration of medication, including prescription drugs and including the self-injection of medication by the participant. ~~evaluation, or assessments or the injections of medication,~~

~~the monitoring of medication, or the self-administration of medication, including prescription drugs and including the self-injection of medication by the participantresident.~~

Non-Medical Leave Days mean days of leave from the ACF by the participant~~client~~ for non-medical reasons such as family visits. ~~or field trips.~~

Programmatic Leave Days mean days of leave from the ACF prescribed for a ~~Medicaid client~~participant by a physician for therapeutic and/or rehabilitative purposes.

Protective Oversight means ~~guidance to a resident~~care and service as defined at 6 CCR 1011-1, Chapter VII, Section 2 ~~1.102.(32)~~ and 10 CCR 2505-10, Section 8.489.31.S.,~~-~~ which includes ~~It is~~ the monitoring and guidance of a ~~resident~~ participant to assure their~~his/her~~ health, safety, and well~~-~~being, and a general awareness of a participant's whereabouts. Protective oversight also includes, but is not limited to: monitoring the participant~~resident~~ while on the premises, ~~ensuring the participant's health, safety, and well-being; and~~ monitoring the participant's needs, and ensuring that the participant receives the services and care necessary to protect the participant's health and welfare. ~~monitoring ingestion and reactions to prescribed medications, if appropriate, reminding the resident to carry out activities of daily living, and~~

facilitating medical and other health appointments. Protective oversight includes the resident choice and ability to travel and engage independently in the wider community, and guidance on safe behavior while outside the ACF.

Provider means the entity that holds the Assisted Living Residence / Facility license and certification and that shall be responsible or delegate responsibility to appropriate staff for the delivery of Alternative Care Services.

Resident Agreement means a written agreement specifying at a minimum the services to be provided, charges and refund policies, written disclosures of information, discharge procedures, and management of participant funds/property, which shall be signed by the participant and/or participant's guardian or other legal representative as outlined in 6 CCR 1011-1, Chapter VII, Section 11.3-6.

Secured Environment means an ACF that operates as defined in 6 CCR 1011-1, Chapter VII, Section 2 Section 1.108.

8.495.2 PARTICIPANTCLIENT ELIGIBILITY

8.495.2.A. Clients Participants who are participating in the Home and Community Based Services (HCBS) Elderly, Blind and Disabled waiver pursuant to 10 CCR 2505-10, Ssection 8.485 andor the HCBS Mental IllnessCommunity Mental Health Supports waiver pursuant to 10 CCR 2505-10, Ssection 8.509 are eligible to receive services in an Alternative Care ServicesFacility.

8.495.2.B. Potential participantsclients shall be assessed, at a minimum, by a team thatwhich includes the client participant and his/her family and/o and/orr guardian or other legal representative, the ACF administrator or appointed representative, and Single Entry Point (SEP)Case Management Agency (CMA) case manager. If one of the parties listed above is not available, input or information must be obtained from each party prior to making an admission determination. It may also include family members, as appropriate Accountable Care Collaborative, or Mental Health Center case managers, and any other interested parties as approved by the participantcare givers, to determine that the ACF is an appropriate community setting that will meet the individual's choice and need for independence and community integration.

1. AnThe assessment will be conducted prior to admission, annually, and whenever there is a significant change in physical, cognitive, or behavioral needs, or as requested by the participant. medical or mental condition or behavior.

2. The assessment will document that the facility is able to support the client participant and their needs. The assessment will also document the participant's physical, behavioral and social needs, so that supports can be identified to enable them to lead as independent a life as possible. The assessment will be used to develop the participant's Care Plan.

2. The assessment will document physical, cognitive, behavioral and social care needs.

8.495.3 CLIENT PARTICIPANT BENEFITS

8.495.3.A. Alternative Care Services which include, but are not limited to, personal care and homemaker services pursuant to 10 CCR 2505-10, S sections 8.489 and 8.490, are benefits to clients participants residing in an ACF.

1. Medication Administration is an Alternative Care Service included in the reimbursement rate for Alternative Care Services and shall not be additionally reimbursed or billed in any other manner.

8.495.3 B. Room and board shall not be a benefit of Alternative CF servicesCare Services. Clients Participants shall be responsible for room and board in an amount not to exceed the Department's annually established rate.

C. Participant engagement opportunities shall be provided by the ACF, as outlined in 6 CCR 1011-1, Chapter VII, Section 12.19-26.

8.495.4 CLIENT PARTICIPANT RIGHTS

8.495.4 A. An ACF shall be integrated in the community and foster the independence of the participantclient while promoting each participant'sclient's individuality, choice of care, and lifestyle.

1. The client'sparticipant's choice to live in an ACF shall afford the client participant the opportunity to responsibly contribute to the home in meaningful ways and shall avoid reducing personal choice and initiative. The participant'sclient's individual behaviors shall not negatively impact the harmony of the ACF.

B. The facility must ensure that a lease, residency agreement, or other form of a written agreement will be in place for each HCBS participant and provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.

1. A violation of a lease or resident agreement that leads to a discharge must include at least 30 days' notice to the participant and/or their guardian or other legal representative, and a copy of the written notice shall be sent to the state or local ombudsman within five calendar days of the date that it was provided to the participant.

C. Clients Participants shall be informed of their rights, according to 6 CCR 1011-1, Chapter VII, Section 13. Pursuant to 6 CCR 1011-1, Chapter VII, Section 13.1, Section 104 (5) (e) (ii), the policy on resident rights shall be posted in a conspicuous place.in a visible location so that they are always available to participants and visitors.

1. These rights include but are not limited to:

a. Participants have the choice in selecting the ACF in which they reside;

b. Participants are afforded the right and opportunity to responsibly contribute to the home in meaningful ways, engage in community life, and express personal choice;

c. Participants have the right to dignity and privacy, including in their living/sleeping units;

d. Participants shall have choice in a roommate, with the provider accommodating roommate choices. If the facility only has one bed in a two-bed room available, the new individual and the current occupant must at least have a chance to meet and determine whether they are willing to share a room; and

e. Communication with staff that is respectful and in a dignified manner.

2. The following rights may be modified when supported by a specific and assessed need, as determined by the provider, participant, and case manager:

a. Participants have the right to furnish and decorate their sleeping and/or living units in the way that suits them, while maintaining a safe and sanitary environment;

b. Participants shall have access to food at all times, choose when and what to eat, and shall have access to food preparation areas if they can appropriately handle kitchen equipment as documented in the Care Plan;

c. Participants and their roommates shall have personal quarters with entrance doors lockable by the individual and shall control access to their quarters, unless otherwise specified in their Care Plan. Only appropriate staff shall have keys to private quarter doors, as specified in the Care Plan;

d. Participants shall have the freedom and support to determine their own schedules and activities, including methods of accessing the greater community;

e. Participants shall have the right to possess and self-administer medications with a physician's written order and approval of the self-administration of medications, (along with a copy of the physician's written order supporting self-administration) which shall be documented in the Care Plan;

f. The right to have visitors at any time;

g. The right to control his/her personal resources; and

h. The right to receive unopened mail.

3. The Care Plan must include proper documentation supporting the modification, which includes but is not limited to:

a. Identification of a specific and individualized assessed need;

b. Documentation of the positive interventions and less intrusive methods that have been used to support the well-being and needs of the participant;

c. Informed consent of the participant or their guardian/other legal representative;

d. Notification to the participant's ~~SEP~~ case manager of any rights modification; and

e. Modifications to the Care Plan and supporting documentation must be reviewed, at a minimum, on an annual basis.

D~~8.495.4.C~~. ~~Clients~~ Participants shall be informed of all ACF ~~rules and/or~~ policies upon admission to the facility, and when changes to policies are made,~~.~~ r~~.~~ ~~R~~ules and/or policies shall apply consistently to the administrator, staff, volunteers, ~~and as appropriate, to clients~~and participants residing in the facility and their family or friends who visit. Participant acknowledgement of rules and policies must be documented in the Care Plan or a participant agreement.

E~~8.495.4.D~~. ~~Clients~~ Participants shall be informed of the facility's policies and procedures~~policy regarding the~~ for implementation of an individual's advance directives, should the need arise.

~~8.495.4.E. Clients shall be allowed to decorate and use personal furnishings in their bedrooms in accordance with house rules while maintaining a safe and sanitary environment at all times.~~

F. If requested by the participant~~client~~, the ACF shall provide bedroom furnishings, including but not limited to a bed, bed and bath linens, a lamp, chair and dresser and a way to secure personal ~~articles~~possessions.

~~8.495.4.F. As documented in the admission assessment (10 CCR 2505-10 section 8.495.2.B), the provider will accommodate roommate choices within reason.~~

~~8.495.4.G. Clients and their roommates determined capable to control access to private personal quarters, shall be allowed to lock their doors and control access to their quarters.~~

~~8.495.4.H.~~ ~~Clients shall have~~ and ~~what~~unscheduled access to food and food preparation areas ~~if determined capable to appropriately handle cooking activities.~~

~~8.495.4.I~~G. Providers shall not require a Medicaid participant~~client~~ to ~~participate~~ take part in performing household or other related tasks. ~~unless such tasks have been outlined in the client's individual care plan as necessary Life Skills Training.~~

~~8.495.4.J. Clients shall have the right to possess and self-administer medications with a physician's written order, and approval of (along with a copy of the physician's written order supporting self-administration)as appropriate.~~

8.495.5 PROVIDER ELIGIBILITY

~~8.495.5.~~A. The Provider shall be licensed in accordance with 6 CCR 1011-1, Chapters II and VII.

~~8.495.5.~~B. Certification Standards ~~for ACFs~~

1. The Provider shall be Medicaid certified by the Department as an ACF in accordance with 10 CCR, ~~Volume 8~~ 2505-10, Section 8.487.20.

2. Certification shall be denied, revoked, terminated or suspended when a Provider is unable to meet, or adequately correct deficiencies relating to, licensure and/or certification standards as defined at 6 CCR 1011-1, Chapter VII and 10 CCR 2505-10, Section 8.495.

~~Administrators shall be qualified as defined at 6 CCR 1011-1, Chapter VII, Section 1.102 shall satisfactorily complete the Department authorized training on ACF rules and regulations prior to Medicaid certification.~~

3. ACF Providers shall maintain a copy of any license, ~~permit,~~ ACF certification, proof of insurance or bond, W-9, and any other documentation as required by state or local authority. Providers shall submit to the Department a copy of the assisted living residence license upon renewal or change of ownership.

4. Administrators shall be qualified as defined at 6 CCR 1011-1, Chapter VII, Section 6, prior to Medicaid certification.

~~4. Provisional certification may be granted at the discretion of the Department for up to 60 days.~~

~~5. Certification shall be denied when a Provider is unable to meet, or adequately correct licensure and/or certification standards as defined at 6 CCR 1011-1, Chapter VII, Section 1.102 and detailed at 6 CCR 1011-1, Chapter VII, Section 1.103.; 10 CCR 2505-10 section 8.495.~~

8.495.5.C. The Provider shall enter into a Provider Agreement with the Department upon the completion of the provider application and ACF certification.

D. The Provider Agreement shall be denied, revoked, suspended, or terminated if an ACF provider does not operate in full compliance with all applicable federal, State and local laws, ordinances and regulations related to fire, health, safety, zoning, sanitation, and other standards prescribed in law or regulations.

8.495.5.ED. Notification to the Department of Significant ACF Change

1. Suspension, Revocation or Termination

a. ACF Providers shall notify the Department within five working days when any required license, permit, certification, insurance or bond has a change in status, including any suspension, revocation or termination.

2. Change of Ownership.

a. Providers shall provide written notice to the Department of intent to change ownership no later than 30 days before the sale of the facility.

i.) The new owner shall not automatically become a Medicaid provider without meeting licensing, certification, and approval process standards. The new owner shall meet all licensing, certification or approval processes and shall not automatically become a Medicaid Provider.

3. The Department may terminate or not renew the Provider Agreement if a Provider is in violation of any applicable standards or regulations.

8.495.6 PROVIDER ROLES AND RESPONSIBILITIES

8.495.6.A. All documentation, including but not limited to, individual resident agreements and Ccare pPlans, employee files, activity schedules, licenses, insurance policies, claim submission documents and program and financial records, shall be maintained according to 10 CCR 2505-10, Ssection 8.130 and provided to supervisor(s), program monitor(s) and auditor(s), and CDPHE surveyor(s) auditors(s) upon request.

B. Participant Engagement

1. Providers shall, in consultation with the participant's, provide social and recreational engagement opportunities both within and outside the facility.

a. Opportunities for social and recreational engagement shall take into consideration the individual interests and wishes of the participants.

b. In determining the types of opportunities and activities offered, the provider shall consider the physical, social, and mental stimulation needs of the participants.

C. Critical Incident Reporting

1. A Critical Incident means an actual or alleged event that creates the risk of serious harm to the health or welfare of a participant. A Critical Incident may endanger or negatively impact the mental and/or physical well-being of a participant. Critical Incidents include, but are not limited to:

a. Death;

b. Abuse/neglect/exploitation;

c. Injury to participant or illness of participant;

c. Damage or theft of participant's property;

d. Medication mismanagement;

e. lost or missing person; and

f. criminal activity.

2. A provider must report a Critical Incident to the participant's ~~Single Entry Point (SEP)~~ case manager within 24 hours of the actual or alleged incident. The report must include:

a. Participant name;

b. Participant identification number;

c. Waiver;

d. Incident type;

e. Date and time of incident;

f. Location of incident;

g. Persons involved;

h. Description of incident; and

i. Resolution, if applicable.

3. If any of the above information is not available within 24 hours of incident and not reported to the case manager, a follow-up to the initial report must be completed. Failure to report incidents may result in corrective action by the Department. ~~8.495.6.B. Using the State approved Critical Incident Reporting Form, Providers shall notify the client's Single Entry Point (SEP) case manager within 24 hours of any incident or situation that would be communicated to other interested parties.~~

D~~8.495.6.C~~. Participant Leave

1. Providers shall notify the ~~client's~~ participant's ~~SEP~~ case manager of any ~~client~~ participant planned or unplanned non-medical and/or programmatic leave for greater than 24 hours.

2~~1~~. The therapeutic and/or rehabilitative purpose of leave shall be documented ~~as part of~~in the participant's ~~client's~~ C~~c~~are P~~p~~lan.

E~~8.495.6.D~~. Additional Charges

1. Any additional monies assessed to the participant~~client~~ or ~~his/her~~their family and/or guardian:

~~1~~ a. Shall not be for Medicaid services~~.~~;

b~~2~~. Shall be clearly delineated in the ~~participant~~client~~resident~~ agreement~~.~~; and

c~~3~~. Shall be fully refunded except for withholdings which are in accordance with the resident agreement and are clearly defined on the day of discharge.

F. Care Plan

1. The following information must be documented in the Care Plan:

a. Medical Information:

i. If the participant is taking any medications and how they are administered, with reference to the Medication Administration Record (MAR);

ii. Special dietary needs, if any; and

iii. Reference to any documented physician orders.

b. Social and recreational engagement:

i. The participant's preferences and current relationships; and

ii. Any restrictions on social and/or recreational activities identified by a physician.

c. Any other special health or behavioral management needs that supports the participant's individual needs.

d. Additional Care Planning Documentation:

i. Documentation which demonstrates that the facility was selected by the participant;

ii. Identification of the Individual's goals, choices, preferences, and needs and incorporation of these elements into the supports and services outlined in the Care Plan;

iii. Any modifications to the participants rights, with the required supporting documentation; and

iv. Evidence the participant and/or their guardian, designated representative, or legal representative has had the opportunity to participate in the development of the Care Plan, has reviewed it, and has signed in agreement with the plan.

~~8.495.6.E~~G. Environmental Standards

1. The Alternative Care Facility is an environment that supports individual comfort, independence and preference, maintains a home-like quality and feel for participants at all times, and provides participants with unrestricted access to the facility in accordance with the residency agreement or modifications as agreed to and documented in the participant's Care Plan. ~~Alternative Care Facilities are responsible and shall maintain a home-like quality and feel for all residents at all times.~~

2. Facilities shall provide an outdoor area accessible to participants without staff assistance that is well maintained, facilitates community gatherings, and is appropriately equipped for the population served.

3. Facilities shall provide access for participants to make private phone calls at their preference and convenience.~~an accessible private telephone with toll free local calls.~~

4~~3~~. Facilities shall provide comfortable places for~~a~~ private visits with family, friends and other visitors. ~~area where clients in shared bedrooms may have visitors.~~

5~~4~~. Facilities shall provide easily accessible ~~access to~~ common areas and a physical environment that meets the needs of any participant needing support. ~~is not through another resident's bedroom.~~

6~~5~~. Facilities shall maintain a comfortable temperature throughout the facility and participant rooms, sufficient to accommodate the use and needs of the participants, never to exceed 80 degrees. ~~be heated to at least 70 degrees during the day and 65 degrees at night. Bedroom temperatures shall not exceed 85 degrees. During the summer months the facility shall provide at least one common area that can accommodate all residents where the temperature is no more than 76 degrees.~~

7~~6~~. The facility shall develop and follow written policies and procedures to ensure the continuation of necessary care to all residents for at least 72 hours immediately following any emergency including, but not limited to, a long-term power failure. ~~Facilities shall have a battery or generator-powered alternative lighting system available in the event of power failure.~~

8~~7~~. The monthly schedule of daily recreational and social engagement ~~activities~~ opportunities shall ~~be posted in a conspicuous place at all times~~be in a visible location so that they are always available to participants and visitors, and developed in accordance with 6 CCR 1011-1, Chapter VII, Section 12.26, ~~Section 1.107.2~~pertaining to Resident Engagement~~Social and Recreation Activities~~.

a. Staff shall be responsible for ensuring that the daily schedule of recreational and social engagement opportunities is implemented and offered to all participants.~~The daily schedule of recreational and social activities shall be implemented by staff and offered to all clients.~~

9~~8~~. ~~Appropriate r~~Reading material ~~should~~shall be available in the common areas at all times, reflecting the interests, hobbies, and requests of the participants.~~that reflects the residents' interests and hobbies shall be made available in the common area(s).~~

10~~9~~. Facilities shall provide nutritious food and beverages that participants~~clients~~ have access to at all times. Access to food and cooking of food shall be in accordance with 6 CCR 1011-1, Chapter VII, Section 17.1-3.~~, Section 1.105(4) House Rules and Section 1.111 (1) Interior Environment~~. The access to food shall be provided in at least one of the following ways:

a. Access to the ACF kitchen.

b. Access to an area separate from the ACF kitchen stocked with nutritious food and beverages.

c. A kitchenette with a refrigerator, sink, and stove or microwave, separate from the ~~client's~~participant's bedroom.

d. A safe, sanitary way to store food in the ~~client's~~participant's room.

110. ~~The~~ Each participant's cooking capacity ~~of residents~~ shall be assessed ~~in the~~as part of the ~~original~~ pre-admission process ~~team evaluation~~ and updated in the Care Plan as necessary.~~on-going care plans.~~

~~a. Cooking may be limited to supervised access, if necessary for the client's safety and well-being.~~

~~H~~8.495.6.F. ~~Service~~ Provider Service Requirements~~Standards~~

1. The facility shall provide Protective Oversight and Alternative Care services to ~~clients~~ participants every day of the year, 24 hours per day.

2. Alternative Care ~~Service~~ Facility Providers shall maintain and follow written policies and procedures for the administration of medication in accordance with 6 CCR 1011-1, Chapter VII and XXIV, Medication Administration Regulations.~~, if the facility administers medication to clients.~~

3. Providers shall not discontinue ~~nor refuse~~ services to a ~~client~~ participant unless documented efforts have been ineffective to resolve the conflict leading to the discontinuance ~~or refusal~~ of services.

4. The facility shall develop emergency policies that address, at a minimum, a plan that ensures the availability of, or access to, emergency power for essential functions and all resident-required medical devices or auxiliary aids.

5. Providers shall have written policies and procedures for employment practices.

~~5~~6. Providers shall maintain the following records/files:

a. Personnel files for all staff and volunteers shall include:

i.~~)~~ Name, home address, phone number and date of hire.

ii.~~)~~ The job description, chain of supervision and performance evaluation(s).

b. It shall be the responsibility of the Administrator to establish written policies concerning employee health, as outlined in 6 CCR 1011-1, Chapter VII, Section 7.6.

~~recommendations/standards/whatever of the iii) For staff with direct resident contact, including food handlers, evidence of pre-hire and annual tuberculin (TB) testing or chest x-ray, where appropriate.~~

cb. ~~Client~~ Participant files shall be kept confidential and shall include:

i.) The participant's ~~team~~ assessment outlined in 10 CCR 2505-10, Ssections 8.495.2. B. and Ccare Pplan per ~~6~~8.495.6.F. ~~CCR 1011-1, Chapter VII, section 1.107(3).~~

~~6. The facility shall ensure that its staff has a clear understanding of all regulations pertaining to the facility's licensure and certification by the State of Colorado.~~

7~~7~~. The facility shall encourage and assist ~~client's~~ participant~~'~~s' participation in engagement opportunities and activities within the ACF community and the wider community, when appropriate.

~~8.495.6.G~~I. Staffing ~~Standards~~Requirements

1. Each facility will divide ~~and document~~ the 24-hour day into two 12~~-~~-hour blocks which will be considered daytime and nighttime. The designation of daytime and nighttime hours shall be permanently documented in facility policy and disclosed in the written resident agreements. In determining appropriate staffing levels, the facility shall adjust staffing ratios based on the individual acuity and needs of the participants in the facility. At a minimum, staffing must be sufficient in number to provide the services outlined in the Care Plans, considering the individual needs, level of assistance, and risks of accidents. Staff to participant ratios are calculated only using staff providing direct service to participants; it does not include auxiliary staff. Auxiliary staff includes but is not limited to, maintenance, custodial, clerical, or food service staff. ~~The facility shall comply with~~

2. Staffing at a facility shall be no less than the following ~~staffing~~ standards:

a. A minimum of 1 staff to ~~-~~10 ~~residents~~ participants during the daytime.

b. A minimum of 1 staff to 16 ~~residents~~ participants during the nighttime.

c. A minimum of 1 staff to 6 ~~residents~~ participants in a Secured Environment at all times.

i.) There shall be a minimum of one awake staff member that is on duty during all hours of operation in a Secured Environment.

~~2~~3. Staffing Ratio Waiver

a. Staffing waiver requests shall be submitted to the Department. They will be evaluated and granted based on several criteria. This includes, but is not limited to:

i. Years facility has been in operation;

ii. Past critical incidents at the facility;

iii. The Provider has adequately documented how a staffing waiver would not jeopardize the health, safety or quality of life of the participants;

iv. Provider availability and client access; and

v. Free of deficiencies impacting participant health and safety in both the CDPHE and Life Safety Code survey and inspections. ~~Prior to receiving~~

~~consideration for a staffing waiver, the facility shall be free of deficiencies for both fire safety and patient care issues in Life Safety and Health surveys.~~

b.~~3.~~ ~~Subject to Departmental approval, the Department may grant staffing waivers~~An approved staffing waiver is only applicable for nighttime hours,~~ only except in a~~with the exception for Secured Environments.

~~a. The Provider shall adequately document that a staffing waiver would not jeopardize the health, safety or quality of life of the residents.~~

c. A staffing waiver expires five years from the date of approval. Continuance of staffing waiver requires Department approval.

d~~b~~. Any existing staffing waiver may be subject to revocation if a facility ~~is~~ does not comply with ~~Department~~any applicable regulations, is cited with ~~fire safety or patient care~~ deficiencies impacting participant health and safety by CDPHE or the Department of Fire Protection Control, has ~~or~~ substantiated patient care complaints, or the staffing waiver has jeopardized the health, safety or quality of life of the participants.~~.~~

i~~c~~. In the event of a staffing waiver denial or revocation, a facility may reapply for a staffing waiver only after the facility receives ~~an annual~~a CDPHE and Life Safety survey with no deficiencies impacting participant health and safety ~~in either fire safety or patient care.~~

~~b~~ii. Existing staffing waivers shall be null and void upon a change in the total number of licensed beds or a change of ownership in a facility.

4. The facility shall ensure that all staff and volunteer training be completed within the first 30 days of employment. Training shall include, but is not limited to, the training topics outlined in 6 CCR 1011-1, Chapter VII, Section 7.9.

5. The Provider shall ensure the Administrator and all staff meet the qualifications and employment standards set forth in 6 CCR 1011-1, Chapter VII, Section 7.4-7.

~~8.495.6.~~J~~H~~. Standards for Secured Environment ACFs

1. Facilities providing a secured environment may be licensed for a maximum of 30 secured beds.

a. A waiver may be granted by the Department when adequate documentation of the need for additional beds has been proven and the number of beds would not jeopardize the health, safety and quality of care of ~~residents~~participants.

2. The facilities shall establish an environment that promotes independence and minimizes agitation and unsafe wandering through the use of visual cues and signs.

~~3. Doors to bedrooms shall not be locked unless the resident is able to manage the key independently.~~

3~~4~~. Provide a secured outdoor area accessible without staff assistance, which shall be level, well maintained, and appropriately equipped for the population served.

~~8.495.6.~~K~~I~~. Appropriateness of Medicaid Participant~~Client~~ Placement

1. An ACF shall not admit, or shall discharge within 30 days, any participant~~client~~, who:

a. Needs skilled services on more than an intermittent basis. Skilled services shall only be provided on an intermittent basis by a Medicaid certified home health provider.

~~b. Is incapable of self-administration of medication, and the facility does not administer medications.~~

~~c. Is consistently unwilling to take medication prescribed by a physician.~~

b~~d~~. Is diagnosed with a substance abuse issue and refuses treatment by the appropriate mental health and/or ~~/~~medical professionals, and cannot be safely served by the facility.

c~~e~~. Has an acute physical illness which cannot be managed through medications or prescribed therapy.

~~f. Has a seizure disorder which is not adequately controlled.~~

e~~g~~. Exhibits behavior that:

i~~.)~~ Disrupts the safety, health and social needs of the home.

ii~~.)~~ Poses a physical threat to self or others, including but not limited to, violent and disruptive behavior and/or any behavior which involves physical, sexual, or psychological force or intimidation and fails to respond to interventions, as outlined in the ~~client's~~ participant's C~~c~~are P~~p~~lan.

iii~~.)~~ ~~Indicates~~ Demonstrates an unwillingness or inability to maintain appropriate personal hygiene under supervision or with assistance.

iv~~.)~~ Is consistently disorientated to time, person and place to such a degree ~~he/she~~they pose~~s~~ a danger to self or others and the ACF does not provide a Secured Environment.

h. Has physical limitations that:

i~~.)~~ Limit ambulation, unless compensated for by assistive device(s) or with assistance from staff.

~~ii) Require tray food services on a continuous basis.~~

2. All discharges, including emergency discharges, shall be in accordance to 6 CCR 1011-1, Chapter VII, Section 11.11.

3. ~~Clients~~ Participants admitted for R~~r~~espite ~~c~~Care to the ACF must meet the same criteria as other ~~clients~~ participants for appropriate placement.

8.495.7 REIMBURSEMENT

~~8.495.7~~ A. Effective January 1 of each year, the Department shall establish a uniform room and board payment for all Medicaid ~~clients~~ participants in ACFs. The standard room and board payment shall be permitted to rise in a dollar-for-dollar relationship to any increase in the

Supplemental Security Income grant standard if the Colorado Department of Human Services also raises its grant amounts.

1. Providers shall not charge a Medicaid participant more than the Department's annually established room and board rate. The room and board rate shall include but is not limited to: basic furniture, linens, utilities, and basic toiletries to include: toilet paper, soap, tissues, shampoo, toothpaste, and toothbrush.

~~8.495.7.~~B. ACFs must bill for reimbursement in accordance with the Department rules, policies and procedures.~~Facilities shall bill for reimbursement according to 10 CCR 2505-10 section 8.040.~~

1. Reimbursement shall be per unit, with one unit equaling one day of care, as ~~estimated~~ outlined on the Prior Authorization (PAR) form.

2. When a participant~~client~~ is determined eligible for HCBS services under the 300% income standard pursuant to 10 CCR 2505-10, S~~s~~ection 8.100, Medicaid reimbursement shall be determined for Alternative Care Services according to 10 CCR 2505-10, S~~s~~ection 8.486.60.

~~8.495.7.~~C. Reimbursement shall be the lower of:

1. The Medicaid unit rate; or

2. The rate the ACF charges its private-pay residents for similar services.

~~8.495.7.~~D. Non-Medical/Programmatic Leave Reimbursement

1. The ACF may receive reimbursement for a maximum of 42 days in a calendar year for Non-Medical/Programmatic Leave Days combined.

2. The ACF cannot bill for services during Leave Days if participant is receiving Medicaid services over 24 hours in another approved Medicaid Facility, such as a nursing facility or hospital.