



COLORADO

Department of Health Care
Policy & Financing

Medical Services Board

MINUTES OF THE MEETING OF THE MEDICAL SERVICES BOARD

303 East 17th Avenue 11th Floor Conference Room, Denver, CO 80203.
October 12, 2018

Call to Order

Ms. Blakely called the meeting to order at 9:01 a.m.

Roll Call

The Board Coordinator called the roll. There were sufficient members for a quorum with eleven members participating.

A. Members Present

Christy Blakely, Cecile Fraley, Patricia Givens, Simon Hambidge, Charlie Lippolis, Bregitta Hughes, Jessica Kuhns, Amanda Moorer, David Potts and Donna Roberts.

B. Members Excused

An Nguyen

C. Staff Present

Gretchen Hammer, Deputy Executive Director; Jennifer Weaver, Attorney General; and Chris Sykes, Board Coordinator

Announcements

Ms. Blakely announced the next Medical Services Board Meeting will be held at 303 East 17th Avenue 11th Floor Conference Room, Denver, CO 80203 on Friday, November 9, 2018 at 9:00 a.m.

It is the policy of this Board and the Department to remind everyone in attendance that this facility is private property. Please do not block the doors or stand around the edges of the room. Please silence cell phones while in the meeting room.



Approval of Minutes

Mr. Potts moved for the approval of the September minutes. The motion was seconded by Dr. Lippolis. There were no comments and the minutes were approved as submitted, 10:0. Dr. Lippolis moved for the approval of the August minutes as corrected. The motion was seconded by Dr. Hambidge. The minutes were approved as corrected, 10:0.

Rules

A. Consent Agenda

Document 01, MSB 18-07-13-A, Revision to the Medical Assistance Rule Concerning Redetermination of Eligibility and Transferring Requirements, Section 8.100.3

Ms. Moorer moved for the final adoption of Document 01. Ms. Roberts seconded the motion.

The Board voted the final adoption of Documents 01; 10:0.

B. Final Adoption Agenda

Document 02, MSB 18-07-23-B

Revision to the Medical Assistance Rule concerning Drug payment Methodology for Outpatient Hospitals, Section 8.300

Kevin Martin, Payment Reform Section, presented the rule and explained the change in this rule from the emergency rule is that the exempt drugs are no longer listed in the definition but points to the website. Ongoing discussions with CMS are occurring, the rule needs to be flexible.

Board Discussion

NA

Public Testimony

NA

Mr. Potts moved for the final adoption of Document 02. Ms. Roberts seconded the motion.

The Board voted the final adoption of Document 02, 10:0.

Document 03, MSB 18-02-09-B

Revision to the Medical Assistance Rule Concerning Community Clinic and Community Clinic and Emergency Center, Section 8.320

Matt Collusi and Raine Henry, Benefits Management Section, presented the rule and explained that there are no changes to the rule language and addressed concerns from the September meeting. Excerpts from the CDPHE letter were read to provide clarification.

Board Discussion

Board discussion included appreciation of the hard work done on the rule and the benefits to the rural settings. Clarification of what occurs beyond 48 hours, the patient is transferred, was discussed. No gap in coverage is created.

Public Testimony

NA

Dr. Lippolis moved for the final adoption of Document 03. Ms. Kuhns seconded the motion.

The Board voted the final adoption of Document 03, 9:0:1.

C. Initial Approval Agenda

Document 04, MSB 18-08-08-A

Revision to the Medical Assistance Rule concerning Adding Community or Facility Based care to CLLI Respite Services, Section 8.504

Lindsay Westlund, Office of Community Living, presented the rule and explained the waiver exists to support families and children. Previously community based respite services was removed from the waiver, there were no providers. Now there is a new provider to provide the service, the service must be added back into rule.

Board Discussion

Board discussion included the service was removed in 2015 at CMS' request due to lack of utilization. An appreciation of the work done was expressed.

Public Testimony

NA

Dr. Fraley moved for the initial approval of Document 04. Ms. Roberts seconded the motion.

The Board voted the initial approval of Document 04, 10:0.

Document 05, MSB 18-07-06-A

Revision to the Medical Assistance Long-Term Services and Supports
HCBS Benefit Rule Concerning Supportive Living Programs, Section 8.515.85

Diane Byrne, Benefits and Services Management Division, presented the rule and explained that citations are being updated. Supportive Living Programs are a residential service on the Brain Injury waiver, about 200 members utilize the service. The rules live in CDPHE and were recently updated. CDPHE requested HCPF update our rules.

Board Discussion

NA

Public Testimony

NA

Dr. Hambidge moved for the initial approval of Document 05. Dr. Lippolis seconded the motion.

The Board voted the initial approval of Document 05, 10:0.

Document 06, MSB 18-02-12-C

Revision to the Medical Assistance Rule concerning Reimbursement of Nursing
Facilities Serving Clients Who Meet the Hospital Back Up Level of Care, Section
8.740.7

Trevor Abeyta, Rates Operation Section, presented the rule and explained the hospital backup program is for members that have been stabilized in the hospital and are still too acute for a skilled nursing facility setting. This rule updates the reimbursed methodology from a negotiated cost element to an acuity based reimbursement. Extensive stakeholder engagement was done and the rule is supported.

Board Discussion

Board discussion included the rural hospital impact, how this rule impacts skilled nursing facilities and not hospitals. Rural providers participating in this program was also discussed.

Public Testimony

NA

Ms. Roberts moved for the initial approval of Document 06. Dr. Lippolis seconded the motion.

The Board voted the initial approval of Document 06, 10:0.

Document 07, MSB 18-08-24-B

Revision to the Medical Assistance Rule concerning Case Management, Sections 8.393, 8.500, 8.600 and 8.700

Brittani Trujillo, Office of Community Living, presented the rule and provided the background for the three following initial rules. Changes for home services management, these rules create qualifications for consent with agencies and managers. My colleague is presenting a rule that supports individuals transitioning from the nursing home or regional center. This will also add additional requirements. The third rule is for new transition services that will be added to be available to people who will be transitioning.

The rule revisions is needed to comply with federal requirements and recent State legislation. Removed language from existing sections in rule and created 8.519 to centralize the case management rules. The required regulatory efficiency schedule will clean up the language in the sections. HCBS services cannot be accessed without case management. A review of the stakeholder engagement performed was discussed.

Continued feedback is being received regarding the qualifications and the impact in a rural setting. A degree, professional experience or combination is agreed to be the best approach. Also, the possibility of including background checks is being looked at.

Board Discussion

Board discussion included the process of checking rural qualifications, how the Department currently performs this task via email.

Public Testimony

Julie Reiskin – Colorado Cross-Disability Community – thank Gretchen over years for all the advocacy work. Many issues with this rule, but support the rule idea. Language fixes are needed, offensive words removed, inaccurate information corrected in rule. Concerned that corrective actions come only from HCPF and not CDPHE.

The Department responded that this rule revision worked to focus on case management and future stakeholder engagement needed. Language will be

cleaned up in regulatory efficiency review. The language used in 8.519 exists in rule elsewhere, no new work or role.

Ms. Reiskin asked what the urgency was and asked HCPF to slow down.

Christiano Sosa – ARC of Colorado – in support of changes to the rule and is pronounced in the rural areas.

Maureen Welch – Advocate –Worked on the task force in 2014 on conflict free case management and agrees the rule is not ready. Offensive language must be stricken, further definitions needed for clarity, training requirements need to be discussed.

Ellen Jensby – Alliance – still reviewing the rule packet, not the case management section, but outside sections. Need consistency across the sections and will continue to work with HCPF.

Robert Hernandez – Advocate –Need robust engagement before this rule moves forward. The approach of Kansas and Wyoming medicaid was discussed, non bureaucratic possibilities. The department responded that the contractor reported in 2017 that Wyoming is struggling with oversight.

A discussion if the rule can be narrowed, commitment to language changes by working with stakeholders and the AG was held. It was agreed HCPF can commit to a long term plan and is willing to bring the plan to the next meeting. It was also discussed that no stakeholders attended the Public Rule Review Meeting before MSB. Moving the rule forward as written is HCPF stand.

Mr. Potts moved for the denial of Document 07. Dr. Lippolis seconded the motion.

The Board voted to deny approval of Document 07, 9:0:1.

Break – 10 minutes. Back at 10:43

Document 08, MSB 18-08-16-A

Revision to the Medical Assistance Rule concerning Targeted Case Management – Transition Services, Sections 8.519 and 8.760

Sarah Grazier, Office of Community Living, presented the rule and explained the proposed rule relates to the previous rule. A background review of the Money Follows the Person demonstration was provided, the demonstration is coming to an end and the services are to be put into rule. The rule allows the continuation of services. The rule proposes to pay in stages for services, no longer one time at the end of services. The change from a demonstration to state plan is difficult, the Department is committed to working with stakeholder on existing issues.

Staff is aware that unit limits have been requested to be revised, data is needed to revise limits accurately.

Board Discussion

Board discussion included how documents 7, 8 & 9 are related and how to address the gap if documents 8 & 9 continue.

Public Testimony

Julie Reiskin – Colorado Cross-Disability Coalition – intensive case management is bad. The demonstration works well, and the proposed case structure is not good. Providers may drop, revert to the old model prior to the demonstration.

Recommendations – listen to the frontline individuals, use existing independent living definitions. The Department responded the state plan allows for flexibility of financing the services and that provider oversight is needed.

Candie Burnham – Atlantis – Centers Independent Living (CIL) provide 5 core services. The proposed rule changes remove CIL's – remove from service. The case management agency structure is burdensome and not good. Continuity over effectiveness is not good. Atlantis appreciates the commitment in 2019, but flawed policy is not good. Lived experience should be included for mentorship qualifications. New rules squeeze out CIL's. The Department responded the intent in peer mentorship and need clarify the language.

Maureen Welch – Advocate – Document 08 was not available online. The work on the pilot doesn't translate to the rule language. The stakeholder input is not true – providers included in meetings create a not safe space for members receiving services. Regional centers are problematic, the transition out of a regional center is not addressed. Reach out to members for feedback.

David Bolan – Accent on Independence – Independent Living Skills Trainings (ILST) is for coaching – for empowerment. No need for a license in this area. The 5-year experience language should go, what individuals need is knowledge and lived experience. The language is too prescriptive. CM name – used BI reqs, not perfect, but willing to work on better fit and have standards. Why BI? Consistency of exp across waivers.

Dawn Russel – Adapt member – The history of Money Follows the Person was given along with a personal story of changes enacted through demonstration. Recommend including lived experience for all transition services. ILST should not need a license, agree that oversight is necessary. The rule as proposed is a bad plan, moving forward with a bad plan is bad.

A discussion about the A land B license occurred, with a need for a C license possibly. CDPHE is the license agency and the department must engage with them. There was greater flexibility in the demonstration and the rule needs to transition into the Medicaid framework. The Department is bound by federal regulations as a medical plan, but also need to innovate to fit the population in Colorado. Community living is emphasized.

Amy Dixon – Advocate, Transition Coordinator – Shared personal story. The rule needs to be quality and not rushed. Don't set people up to fail. Licensure is bad. Experience and passion are best. The Department responded that the ILST provider qualifications include experience in training.

Martha Mason – Southwest Center for Independence – The Department indicated that home health certification for revision of personal care is necessary to get consistency but it's not showing any level of care, so the rule is unnecessary and overkill.

Paulette Steinhoff – Advocate – Shared program successes and personal story of transition. Explained the intangibles of life experience and why it should be included.

Ms. Moorer moved to table Document 08 & 09. Ms. Roberts seconded the motion.

The Board voted to table Document 08 & 09, 10:0.

Document 09, MSB 18-08-21-A

Revision to the Medical Assistance Rule concerning Transition Services, Section 8.553

Matt Baker, Service Development and Evaluation Unit, presented the rule and explained transition services initiated by statute, there are for specific type – ILST, transition set-up, home meals and peer mentorship. The transition services are now incorporated to existing HCBS waivers. A review of the stakeholder process was discussed. The difference between the two draft rules are additional clarity and a regional centers definition. HCBS waivers are governed through CMS. Need to heighten standards and align with BI waiver to increase provider access. Stronger personal care, to align with qualifications. Professional experience now accepted, want to align with the BI waiver. Expanding the scope of Personal Care to include essential items. The unit limits revised in transition set-up and peer mentorship references the manual for core competencies.

Board Discussion

Document 8 & 9 comments occurred together.

Public Testimony

Lisa Payne - Mi Casa Transition Services – The unit levels were discussed. Current level is 240 or 60 hours per year. A successful transition can take 330 plus units, or 98 hours. This is a case by case scenario, other transitions are much higher. Initial transitioning uses many hours, then trails as the member stabilize. To approve more units for transition a budget request is needed. The possibility of collective units for an agency or per member was discussed. One thing that

cannot be predicted is the acuity of need of the member, an episode can take a low need member to high needs or vice-versa.

Susan Love – Advocate – echoed concern over unit limits.

Ms. Moorer moved to table Document 08 & 09. Ms. Roberts seconded the motion.

The Board voted to table Document 08 & 09, 10:0.

D. Consent

Ms. Moorer moved to add Documents 04, 05, 06, to the Consent Agenda. Ms. Roberts seconded the motion. The Board voted approval, 8:0.

E. Closing Motion

Mr. Potts moved to close the rules portion of the agenda. The motion was seconded by Ms. Roberts. The Board voted to close the rules portion of the agenda, 9:0.

Open Comments

- Maureen Welch, parent
- Rob Hernandez, advocate

Department Updates

- Department Updates/Questions – Gretchen Hammer, Medicaid Director, Deputy Executive Director

The meeting was adjourned at 1:40 p.m.

The next scheduled meeting of the Medical Services Board is at 9:00 a.m. on Friday, November 9, 2018 at 303 East 17th Avenue 11th Floor Conference Room, Denver, CO 80203.

Reasonable accommodations will be provided upon request for persons with disabilities. Please notify the Board Coordinator at 303- 866-4416 or chris.sykes@state.co.us or the 504/ADA Coordinator hcpf504ada@state.co.us at least one week prior to the meeting.