

# PDPPC Meeting – January 24, 2018

## Draft Minutes for Approval at February Meeting

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### **Executive Summary:**

We discussed the SLS case management training for eventual SLS implementation of CDASS, IHSS sunset process and regulations, and whether or not we should make a recommendation regarding billing rules for short visits. We also reviewed the results of the FMS satisfaction surveys.

### **Opening:**

The meeting was called to order shortly after 1:00, attendance was taken and voting rights for this meeting were confirmed.

Question about voting: When someone holds a vote for an organization and they leave the organization do we keep them on the list? The answer is that we have an ongoing process where one must attend three consecutive meetings to get a vote. The process is on the back side of the agenda.

Curt Wolff and Kevin Smith and John Barry(co-chairs) welcomed everyone to the meeting and invited people to speak up. John explained the protocol and how he works to include people on the phone, especially clients. Linda commented that John does a great job of managing this. Mark Simon said that this meeting was well run and the minutes are informative.

**Minutes:** Kevin Smith moved and Debbie Miller seconded approval of minutes from December. This passed unanimously.

Request to move department response to recommendation earlier in agenda, the group agreed to do that first.

### **Open Forum:**

#### **Linda S.**

- 1) What is implementation for SLS? No date yet.
- 2) What is date of case management training January 29, 31 and February 6 and 8.
- 3) When will SLS manual be published online? Answer upon implementation.

#### **Mark Simon**

Job listing websites like Indeed won't take ads from CDASS clients. We need to be able to use sites other than Craigslist. He is not sure why this is happening and it feels discriminatory.

They want proof you are a business, license, permit, etc. An EIN letter not acceptable. Could Consumer Direct help? Kady said she would look into it and see if they would be open to this.

### **Debbie Miller**

Wants to revisit "use it or lose it". Brian had money in allotment and it went back to state and they got cut the same amount. She got a call from someone else that also got cut. Family member in between workers, they take away the money and then there is no money to cover it. **Rhyann will follow up.** There should be a notice with appeal rights. Julie suggested a policy memo. Rhyann said that case manager training does say that allocation is based on needs. If there is a change they need to send an 803. **Rhyann will work with Brittani to send a reminder to case managers that allocations can only be based on needs, not spending.** Linda Medina said that she thought that there is a requirement that people use 100% of their plans and if they use less case managers should reduce the plan. Julie said that this is not accurate for HCBS/EBD and Linda S. asked where this case from. Linda M. said this was part of the quality improvement process and they have to do remediation and corrective action to make sure people use 100% of their plans. Linda said that it affects all waivers and all services. Heather said she agreed with Linda and they are being told to write a remediation tool and corrective action for someone that spent 97%. Rhyann said when she did this it was 80% and she will find out what is happening. CDASS has not been seen much on QIS reports. We have a stronger utilization because we are able to hire our own people. She will reach out to find out what the problem is. This is a larger picture issue. Corrine-asked if there was a way to allow family members to document what work they do outside of the 40 hours a week. Rhyann said that people can always maintain their own documentation about the services people are providing.

**Katie:** Next EVV stakeholder meeting is 1/30 from 10:30-12 in room 7 and B. Materials including call in are on the HCPF website. You can also email [evv@state.co.us](mailto:evv@state.co.us)

### **IHSS**

Erin said the rules will go to MSB 2/9/ at 9 am and it will be 8510 North Bryant in Westminster. This may be a medical office building. Julie asked if there was a concern or opposition requiring turnout for testimony. Answer is we do not think so but there was concern about the requirement that and AR know a client for two years.

Ellen Graham from DORA Office of Regulatory Reform who is the analyst assigned to the Sunset Review. She explained the process. There will be a bill in about a year, the report comes out 10/15 and they are in the research phase now. IHSS is relatively new program, but has gone through 3 Sunset reviews already. One question is how long each sunset extension is—they have discretion to go between 1-15 years and they try to make this commensurate with the report. Past reviews were 3 years or 5 years each and this time they may be able to go longer because IHSS has grown in a way so it is not the best use of time to continue to reviews every three years. Ellen will coordinate with John to get her contact info out so people will be able to speak to her and give testimony. Question: What are the criteria? The DORA statute 24-34-

104 says what the criteria are: This includes do we need regulation, why did we need it to start, and do we still need it or do we need to change. Many of these do not apply to CDASS. Ellen welcomes feedback, you can call, email or meet in person. Ellen can be reached at 303-894-2527 or [ellen.graham@state.co.us](mailto:ellen.graham@state.co.us) you can make comments [here](#)

Erin said if you are involved in the workgroup there is a meeting on 2/7 at AOI. If you are interested in being on the list let John or Erin know.

**RESPONSE TO REQUEST TO ALLOW PDPPC MEMBERS TO LISTEN IN ON SLS CDASS TRAINING:** They decided to invite Curt Wolff to sit in on the sessions as a representative of PDPPC. They will record one session. They will also compile all of the questions from the trainings.

Linda-this is not about Curt or quality of the training and or not about the case managers that have been involved, but there are concerns that some case managers will not embrace consumer direction and Curt is great but not involved in IDD world on a regular basis. There needs to be a way to know what is being said and there will be staff from HCPF in attendance. They want to stress that this is an option. The concern is that case managers will talk about how people cannot handle it. The concern was that it would be possible to identify individuals and that could be a HIPAA violation and a learning environment.

Linda-will you put answers out there? Answer YES we will put answers.

Curt-said he appreciated opportunity and understands a lot of the innuendos and will work to do the best possible job.

Kady said her goal was to have case managers feel supported to help clients do CDASS. She did talk to Gerrie and felt she was satisfied.

Linda M. hopes that this will be answer to struggle people have in finding providers. This has been a huge difficulty. She hopes this will be a positive outcome and many case managers have not heard anything about CDASS. She has been attending PDPPC for several years and it took her time to figure this out and she is looking forward to trainings. Julie said she hoped Linda M. will speak up at the trainings.

Rhyann said there are people that have left the SEP and moved to the CCB. Some case managers will know more about consumer direction from previous jobs.

Katie McGuire asked that case managers and clients attend the information sessions because they need to have accurate information to make informed choice. People should contact consumer direct if they have questions. CCBs have not had training yet so they cannot yet answer questions.

Linda S: Will the information session webinar recording be available later? Kady said she is not sure, she is worried people would be confused and think that this was the training and needs to think about it. People will still need to go through the client training.

Julie said we may need to rethink the rule about training and who can and cannot be part of training. Kady said in order to be person-centered they allow people to participate, except for paid attendants who cannot be part of the budget part.

## **FMS SURVEY RESULTS**

Kady said that the 2017 client satisfaction survey has been posted. The 2017 and 2016 are on the websites.

Julie—do we let people know about these and if so do we tell people they are done and also do we tell people that they can do open enrollment. Julie asked how clients know about the ability to change FMS agencies. Answer –case managers know but not sure how much or how often they tell clients.

Linda S. do we remind case managers that clients can make a change?

Case managers generally do not know and would not remember and it is consumer direction.

Kady wanted to remind everyone that FMS changes are not just in March but every quarter.

Cathey Forbes noted verbiage on the survey that this is for HCPF use. She said if you are comparing the three FMS vendors you see that PPL has the most clients because of the years that they were the only FMS.

Julie asked how we make clients who have been on CDASS a long time aware that they can change FMS companies and that they can and should read survey results.

Rhyann—we want to drive people to Consumer Direct for all information re CDASS. A mailing with a magnet went to all CDASS clients approximately a year ago referring them to call Consumer Direct when they have questions regarding CDASS.

John—could we have case managers at the annual review ask clients if they want to change FMS agencies? Julie said she liked idea and maybe the case managers could simply give clients a consumer direct brochure which could say what CDCO can do and drive people to the website. Rhyann said at the end of the brochure or flyer it could have info about PDPPC to perhaps increase our attendance.

Curt asked if CCDC could send this out on their newsletter. Julie said yes.

## **ATTENDANT BILLING:**

Rhyann said we discussed attendant billing and structure and decided it needed to be on the agenda. Curt said this is a carryover from last time. Curt said Julie sent an explanation of how we got to the rates we have now. It does not specifically say 15 minute increments for home

health agencies. We should be clear about how we are moving this forward and make a recommendation if needed. One example is if we should have a 1 hour minimum option. We need to see if we can move to that through CMS. We need to consider if state budget would be affected. We need to have all cards on the table and everyone playing by the rules and have logical reasons for doing what we are doing.

#### Discussion:

CDASS should be based on our needs. Will people try to do things they should not do like unsafe transfers if they cannot get people to show up for 15 minutes of pay?

Debbie said that we also need to change service codes from training or weekend as that is misleading to people that read the reports. We should just do rates 1-5. People are also confused thinking they need to get overtime if it is a weekend rate.

Curt said he never saw on a website where it said we have to bill for 15 minute increments. He said we need clarification from HCPF. Kevin asked if this was in the CDASS rules anywhere.

Rhyann said her understanding was from the case manager side on billing for services received. CDASS rate is in 15 minute increments. If PDPPC thinks structure should be different they should say so.

John said that if there is a recommendation it should be distributed in writing ahead of time for everyone to absorb. We should also check out with the Department of Labor if there is an issue. This will be taken up at the next meeting. **Curt will do some research on the labor regulations.**

Cathey said she had been on CDASS since 2012 and has not been in a hospital all of this time, this is proof that people know their own needs.

**CONCLUSION: We will table this while further research is done and a proposal distributed.**

#### **Open Forum 2:**

Tonya from TriWest the evaluation group said that John sent a message today stating that TriWest is soliciting volunteers to be key informant interviewees. The purpose is for TriWest to get background information, identify the issues, and get feedback, etc. Instructions to contact them are in the message. This is an evaluation of CDASS and IHSS services discussed at the last meeting. Jerry asked if there was incentive for participation because this takes peoples time. Tonya said these are key informant interviews which are usually done by paid staff, but this may not be the case here and that Jerry made a good point. Tonya said she will talk to Rhyann. Tim asked if this is tied into IHSS sunset. While the evaluation and sunset are different projects, Tonya said that they will make the evaluation information available to HCPF who can make it available to DORA. This evaluation will be done in June so the timing will work for DORA inclusion.

Julie wanted to figure out way to do outreach and has concern about the lack of growth in CDASS. She would like this to be on the agenda later. Julie said that there is a problem but not sure what the problem is because only department staff or contractors can access clients. Maria said she agreed and wanted to know what was going on with the Cert Committee. John said that the Cert committee was a subcommittee and championed by Kelly Tobin and Curt Wolff. Kelly had said in a meeting several months ago that she was unable to keep it going. Since no one else took charge it will stay on hold.

The next meeting will be 2/28/18 at the new offices of the Colorado Health Foundation with Free Parking. This is not a regular meeting place. It is at the 1700 block of Pennsylvania.

Sunset Criteria attached below:

COLORADO REVISED STATUTES

\*\*\* Current through all Laws passed and signed in the First Regular and First Extraordinary Sessions of the 71st General Assembly (2017) \*\*\*

TITLE 24. GOVERNMENT - STATE  
PRINCIPAL DEPARTMENTS  
ARTICLE 34. DEPARTMENT OF REGULATORY AGENCIES  
PART 1. ORGANIZATION

C.R.S. 24-34-104.1 (2017)

24-34-104.1. General assembly sunrise review of new regulation of occupations and professions

(1) The general assembly finds that regulation should be imposed on an occupation or profession only when necessary for the protection of the public interest. The general assembly further finds that establishing a system for reviewing the necessity of regulating an occupation or profession prior to

enacting laws for such regulation will better enable it to evaluate the need for the regulation and to determine the least restrictive regulatory alternative consistent with the public interest.

(2) (a) For proposals submitted on or after July 1, 2012, any professional or occupational group or organization, any individual, or any other interested party that proposes the regulation of any unregulated professional or occupational group shall submit the following information to the department of regulatory agencies no later than December 1 of any year for analysis and evaluation during the following year:

(I) A description of the group proposed for regulation, including a list of associations, organizations, and other groups representing the practitioners in this state, and an estimate of the number of practitioners in each group;

(II) A definition of the problem or problems to be solved by regulation and the reasons why regulation is necessary;

(III) A statement of support for the proposed regulation as described in paragraph (b) of this subsection (2);

(IV) The reasons why certification, registration, licensure, or other type of regulation is being proposed and why that regulatory alternative was chosen;

(V) The benefit to the public that would result from the proposed regulation;

(VI) The cost of the proposed regulation; and

(VII) A description of any anticipated disqualifications on an applicant for licensure, certification, relicensure, or recertification based on criminal history and how the disqualifications serve public safety or commercial or consumer protection interests.

(b) The department shall review a proposal to regulate a professional or occupational group only when the party requesting the review files a statement of support for the proposed regulation that has been signed by at least ten members of the professional or occupational group for which regulation is being sought or at least ten individuals who are not members of the professional or occupational group.

(3) (a) Except as provided in paragraph (b) or (c) of this subsection (3), the department of regulatory agencies shall conduct an analysis and evaluation of any proposed regulation submitted on or after July 1, 2012. The analysis and evaluation must be based upon the criteria listed in paragraph (b) of subsection (4) of this section. The department of regulatory agencies shall submit a report to the proponents of the regulation and to the general assembly no later than October 15 of the year following the year in which the proposed regulation was submitted.

(b) (I) After review of a proposal to regulate a professional or occupational group that was submitted on or after July 1, 2012, the department of regulatory agencies may decline to conduct an analysis and evaluation of the proposed regulation only if it:

(A) Previously conducted an analysis and evaluation of the proposed regulation of the same professional or occupational group;

(B) Issued a report not more than thirty-six months prior to the submission of the current proposal to regulate the same professional or occupational group; and

(C) Finds that no new information has been submitted that would cause the department to alter or

modify the recommendations made in its earlier report on the proposed regulation of the professional or occupational group.

(II) If the department of regulatory agencies declines to conduct an analysis and evaluation pursuant to this paragraph (b), the department shall reissue its earlier report on the proposed regulation to the proponents of the regulation and the general assembly no later than October 15 of the year following the year in which the proposed regulation was submitted.

(c) If the department receives a proposal to regulate a professional or occupational group indicating, based on documentation verified by the department, that the unregulated professional or occupational group poses an imminent threat to public health, safety, or welfare, the department shall promptly notify the proponents of the proposed regulation and the legislative council of the general assembly of the imminent threat and shall submit to the legislative council the documentation on which it bases its finding of imminent threat. Within thirty days after receipt of the notice and documentation from the department, the legislative council shall conduct a hearing to examine the documentation and determine whether it concurs with the department's finding that an imminent threat exists. In conducting its examination, the legislative council shall consider whether regulation of the professional or occupational group without first obtaining an analysis and evaluation pursuant to paragraph (a) of this subsection (3) will substantially alter the impact on public health, safety, or welfare. The department may forego the analysis and evaluation only if the legislative council notifies the department that the legislative council concurs with the department's finding of imminent threat to public health, safety, and welfare.

(4) (a) (Deleted by amendment, L. 96, p. 796, § 7, effective May 23, 1996.)

(b) In such hearings, the determination as to whether such regulation of an occupation or a profession is needed shall be based upon the following considerations:

(I) Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety, or welfare of the public, and whether the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;

(II) Whether the public needs, and can reasonably be expected to benefit from, an assurance of initial and continuing professional or occupational competence;

(III) Whether the public can be adequately protected by other means in a more cost-effective manner; and

(IV) Whether the imposition of any disqualifications on applicants for licensure, certification, relicensure, or recertification based on criminal history serves public safety or commercial or consumer protection interests.

(c) (Deleted by amendment, L. 96, p. 796, § 7, effective May 23, 1996.)

(5) Repealed.

(6) (a) Except as provided in paragraph (b) of this subsection (6), the supporters of regulation of a professional or occupational group may request members of the general assembly to present appropriate legislation to the general assembly during each of the two regular sessions that immediately succeed the date of the report required pursuant to subsection (3) of this section without the supporters having to comply again with the provisions of subsections (2), (3), and (4) of this section. Bills introduced pursuant to this subsection (6) shall count against the number of bills to which members of the general assembly are limited by any joint rule of the senate and the house of representatives.

(b) If, pursuant to paragraph (b) or (c) of subsection (3) of this section, the department of regulatory agencies declines to conduct an analysis and evaluation of the proposed regulation of a professional or occupational group and reissues a prior report on the proposed regulation of the same professional or occupational group or finds that the unregulated professional or occupational group poses an imminent threat to public health, safety, or welfare, as confirmed by the legislative council of the general assembly, the supporters of the regulation of the professional or occupational group may request that members of the general assembly present appropriate legislation to the general assembly during each of the next two regular sessions that begin after the date the department reissues its original report on the proposed regulation or the date on which the legislative council notifies the department that it concurs in a finding of imminent threat pursuant to paragraph (c) of subsection (3) of this section, whichever is applicable.

(7) This section is exempt from the provisions of [section 24-1-136 \(11\)](#), and the periodic reporting requirement of this section shall remain in effect until changed by the general assembly acting by bill.

**HISTORY:** Source: L. 85: Entire section added, p. 280, § 3, effective May 23. L. 90: IP(2) and (3) amended, p. 332, § 11, effective April 3. L. 94: IP(2) amended and (6) added, p. 1456, § 5, effective May 25. L. 96: (2), (3), (4)(a), (4)(c), and (6) amended, p. 796, § 7, effective May 23. L. 2000: (7) added, p. 1549, § 18, effective August 2. L. 2006: IP(2) amended, p. 245, § 1, effective July 1. L. 2007: IP(2), (3), and (6) amended, p. 1464, § 1, effective May 30. L. 2012: (2), (3), and (6)(b) amended, ([HB 12-1015](#)), [ch. 17, p. 45, § 1](#), effective March 15. L. 2013: (2)(a)(V), (2)(a)(VI), (4)(b)(II), and (4)(b)(III) amended and (2)(a)(VII) and (4)(b)(IV) added, ([SB 13-123](#)), [ch. 289, p. 1541, § 6](#), effective May 24.

Editor's note: (1) Subsection (5)(b) provided for the repeal of subsection (5), effective February 1, 1986. (See L. 85, p. 280.)

(2) Subsection (2)(a)(VII) was numbered as (2)(f) in Senate Bill 13-123 but was renumbered on revision for ease of location. Subsections (2)(a)(V) and (2)(a)(VI) were numbered as subsections (2)(d) and (2)(f) in Senate Bill 13-123 but were renumbered on revision to reflect the numbering changes made to subsection (2) in 2012.

Cross references: For establishment of the sunrise and sunset review committee, see § 2-3-1201.