

## **8.510 CONSUMER DIRECTED ATTENDANT SUPPORT SERVICES**

### **8.510.1 DEFINITIONS**

- A. Adaptive Equipment means one or more devices used to assist with completing activities of daily living.
- B. Allocation means the funds determined by the Case Manager in collaboration with the client and made available by the Department through the Financial Management Service (FMS) vendor for Attendant support services available in the Consumer Directed Attendant Support Services (CDASS) delivery option.
- C. Assessment means a comprehensive evaluation with the client seeking services and appropriate collaterals (such as family members, advocates, friends and/or caregivers) conducted by the Case Manager, with supporting diagnostic information from the client's medical provider to determine the client's level of functioning, service needs, available resources, and potential funding sources. Case Managers shall use the Department's prescribed tool to complete assessments.
- D. Attendant means the individual who meets qualifications in 8.510.8 who provides CDASS as described in 8.510.3 and is hired by the client or Authorized Representative through the contracted FMS vendor.
- E. Attendant Support Management Plan (ASMP) means the documented plan described in 8.510.5, detailing management of Attendant support needs through CDASS.
- F. Authorized Representative (AR) means an individual designated by the client or the client's legal guardian, if applicable, who has the judgment and ability to direct CDASS on a client's behalf and meets the qualifications contained in 8.510.6 and 8.510.7.
- G. Case Management Agency (CMA) means a public or private entity that meets all applicable state and federal requirements and is certified by the Department to provide case management services for Home and Community Based Services waivers pursuant to §§ 25.5-10-209.5 and 25.5-6-106, C.R.S., and has a current provider participation agreement with the Department.
- H. Case Manager means an individual employed by a Case Management Agency who is qualified to perform the following case management activities: determination of an individual client's functional eligibility for one or more Home and Community Based Services (HCBS) waivers, development and implementation of an individualized and person-centered care plan for the client, coordination and monitoring of HCBS waiver services delivery, evaluation of service effectiveness, and periodic reassessment of client needs.
- I. Consumer-Directed Attendant Support Services (CDASS) means the service delivery option that empowers clients to direct their care and services to assist them in accomplishing activities of daily living when included as a waiver benefit. CDASS benefits

may include assistance with health maintenance, personal care, and homemaker activities.

- J. CDASS Certification Period Allocation means the funds determined by the Case Manager and made available by the Department for Attendant services for the date span the client is approved to receive CDASS within the annual certification period.
- K. CDASS Task Worksheet: A tool used by a Case Manager to indicate the number of hours of assistance a client needs for each covered CDASS personal care services, homemaker services, and health maintenance activities.
- L. CDASS Training means the required CDASS training and comprehensive assessment provided by the Training and Operations Vendor to a client or Authorized Representative.
- M. Department means the Colorado Department of Health Care Policy and Financing, the Single State Medicaid Agency.
- N. Family Member means any person related to the client by blood, marriage, adoption, or common law as determined by a court of law.
- O. Financial Eligibility means the Health First Colorado financial eligibility criteria based on client income and resources.
- P. Financial Management Services (FMS) vendor means an entity contracted with the Department and chosen by the client or Authorized Representative to complete employment-related functions for CDASS Attendants and to track and report on individual client CDASS Allocations.
- Q. Fiscal/Employer Agent (F/EA) provides FMS by performing payroll and administrative functions for clients receiving CDASS benefits. The F/EA pays Attendants for CDASS services and maintains workers' compensation policies on the client-employer's behalf. The F/EA withholds, calculates, deposits and files withheld Federal Income Tax and both client-employer and Attendant-employee Social Security and Medicare taxes.
- R. Functional Eligibility means the physical and cognitive functioning criteria a client must meet to qualify for a Medicaid waiver program, as determined by the Department's functional eligibility assessment tool.
- S. Home and Community-Based Services (HCBS) means a variety of supportive services delivered in conjunction with Colorado Medicaid Waivers to clients in community settings. These services are designed to help older persons and persons with disabilities to live in the community.
- T. Inappropriate Behavior means offensive behavior toward Attendants, Case Managers, the Training and Operations Vendor or the FMS, and which includes: documented verbal, sexual and/or physical abuse. Verbal abuse may include threats, insults or offensive language.

- U. Licensed Medical Professional means the primary care provider of the client, who possesses one of the following licenses: Physician (MD/DO), Physician Assistant (PA) and Advanced Practicing Nurse (APN), as governed by the Colorado Medical Practice Act and the Colorado Nurse Practice Act.
- V. Prior Authorization Request (PAR) means the Department-prescribed process used to authorize HCBS waiver services before they are provided to the client.
- W. Notification means a communication from the Department or its designee with information about CDASS. Notification methods include but are not limited to announcements via the Department's CDASS web site, client account statements, Case Manager contact, or FMS vendor contact.
- X. Stable Health means a medically predictable progression or variation of disability or illness.
- Y. Training and Operations Vendor means the organization contracted by the Department to provide training and customer service for self-directed service delivery options to clients, Authorized Representatives, and Case Managers.

**8.510.2 ELIGIBILITY**

- 8.510.2.A. To be eligible for the CDASS delivery option, the client shall meet the following eligibility criteria:
  - 1. Choose the CDASS delivery option.
  - 2. Meet HCBS waiver functional and financial eligibility requirements.
  - 3. Demonstrate a current need for covered Attendant support services.
  - 4. Document a pattern of stable client health indicating appropriateness for community-based services and a predictable pattern of CDASS Attendant support.
  - 5. Provide a statement, at an interval determined by the Department, from the client's primary care physician, physician assistant, or advanced practice nurse, attesting to the client's ability to direct their care with sound judgment or a required AR with the ability to direct the care on the client's behalf.
  - 6. Complete all aspects of the ASMP and training and demonstrate the ability to direct care or have care directed by an AR.
    - a. Client training obligations
      - i. Clients and ARs who have received training through the Training and Operations Vendor in the past two years and have utilized CDASS in the previous six months may receive a

modified training to restart CDASS following an episode of closure. The Case Manager will review the allocation and attendant management for the client's previous service utilization and consult with the Department to determine whether full retraining is required, or an abbreviated training based on history of managing allocation and services is needed.

ii. A client who was terminated from CDASS due to a Medicaid financial eligibility denial that has been resolved may resume CDASS without attending training if they had received CDASS in the previous six months.

**8.510.3 COVERED SERVICES**

8.510.3.A. Covered services shall be for the benefit of only the client and not for the benefit of other persons.

8.510.3.B. Services include:

1. Homemaker: General household activities provided by an Attendant in a client's home to maintain a healthy and safe environment for the client. Homemaker activities shall be provided only in the primary living space of the client and multiple Attendants may not be reimbursed for duplicating homemaker tasks. Tasks may include the following activities or teaching the following activities:
  - a. Housekeeping, such as dusting, vacuuming, mopping, and cleaning bathroom and kitchen areas;
  - b. Meal preparation;
  - c. Dishwashing;
  - d. Bed making;
  - e. Laundry;
  - f. Shopping for necessary items to meet basic household needs.
2. Personal Care: Services furnished to an eligible client in the community or in the client's home to meet the client's physical, maintenance, and supportive needs. Personal care tasks may include:
  - a. Eating/feeding, which includes assistance with eating by mouth using common eating utensils such as spoons, forks, knives, and straws;
  - b. Respiratory assistance with cleaning or changing oxygen equipment tubes, filling distilled water reservoirs, and moving a cannula or mask from or to the client's face;

- c. Preventive skin care when skin is unbroken, including the application of non-medicated/non-prescription lotions, sprays, and/or solutions, and monitoring for skin changes.
- d. Bladder/Bowel Care:
  - i) Assisting client to and from the bathroom;
  - ii) Assistance with bed pans, urinals, and commodes;
  - iii) Changing incontinence clothing or pads;
  - iv) Emptying Foley or suprapubic catheter bags, but only if there is no disruption of the closed system;
  - v) Emptying ostomy bags;
  - vi) Perineal care.
- e. Personal hygiene:
  - i) Bathing, including washing and shampooing;
  - ii) Grooming;
  - iii) Shaving with an electric or safety razor;
  - iv) Combing and styling hair;
  - v) Filing and soaking nails;
  - vi) Basic oral hygiene and denture care.
- f. Dressing assistance with ordinary clothing and the application of non-prescription support stockings, braces and splints; and the application of artificial limbs when the client is able to assist or direct.
- g. Transferring a client when the client has sufficient balance and strength to reliably stand and pivot and assist with the transfer. Adaptive and safety equipment may be used in transfers, provided that the client and Attendant are fully trained in the use of the equipment and the client can direct and assist with the transfer.
- h. Mobility assistance when the client has the ability to reliably balance and bear weight or when the client is independent with an assistive device.

- i. Positioning when the client is able to verbally or non-verbally identify when their position needs to be changed, including simple alignment in a bed, wheelchair, or other furniture.
  - j. Medication Reminders when the medications have been preselected by the client, a Family Member, a nurse or a pharmacist, and the medications are stored in containers other than the prescription bottles, such as medication minders and:
    - i) Medication minders are clearly marked with the day, time, and dosage and kept in a way as to prevent tampering;
    - ii) Medication reminding includes only inquiries as to whether medications were taken, verbal prompting to take medications, handing the appropriately marked medication minder container to the client and opening the appropriately marked medication minder if the client is unable to do so independently.
  - k. Cleaning and basic maintenance of durable medical equipment.
  - l. Protective oversight when the client requires supervision to prevent or mitigate disability-related behaviors that may result in imminent harm to people or property.
  - m. Accompanying includes going with the client, as indicated in the care plan, to medical appointments and errands, such as banking and household shopping. Accompanying the client to provide one or more personal care services as needed during the trip. Attendant may assist with communication, documentation, verbal prompting, and/or hands-on assistance when tasks cannot be completed without the support of the Attendant.
3. Health Maintenance Activities: Health maintenance activities include routine and repetitive health-related tasks furnished to an eligible client in the community or in the client's home, which are necessary for health and normal bodily functioning that a person with a disability is physically unable to carry out. Services may include:
- a. Skin care, when the skin is broken, or a chronic skin condition is active and could potentially cause infection and the client is unable to apply creams, lotions, sprays, or medications independently due to illness, injury or disability. Skin care may include: wound care, dressing changes, application of prescription medicine, and foot care for people with diabetes when directed by a Licensed Medical Professional.
  - b. Nail care in the presence of medical conditions that may involve peripheral circulatory problems or loss of sensation; includes soaking, filing and trimming.

- c. Mouth care performed when health maintenance level skin care is required in conjunction with the task, or:
  - i) There is injury or disease of the face, mouth, head or neck;
  - ii) In the presence of communicable disease;
  - iii) When the client is unable to participate in the task;
  - iv) Oral suctioning is required;
  - v) There is decreased oral sensitivity or hypersensitivity;
  - vi) Client is at risk for choking and aspiration.
  
- d. Dressing performed when health maintenance-level skin care or transfers are required in conjunction with the dressing, or:
  - i) The client is unable to assist or direct care;
  - ii) Assistance with the application of prescribed anti-embolic or pressure stockings is required;
  - iii) Assistance with the application of prescribed orthopedic devices such as splints, braces, or artificial limbs is required.
  
- e. Feeding is considered a health maintenance task when the client requires health maintenance-level skin care or dressing in conjunction with the task, or:
  - i) Oral suctioning is needed on a stand-by or intermittent basis;
  - ii) The client is on a prescribed modified texture diet;
  - iii) The client has a physiological or neurogenic chewing or swallowing problem;
  - iv) Syringe feeding or feeding using adaptive utensils is required;
  - v) Oral feeding when the client is unable to communicate verbally, non-verbally or through other means.
  
- f. Exercise prescribed by a Licensed Medical Professional, including passive range of motion.
  
- g. Transferring a client when they are not able to perform transfers independently due to illness, injury or disability, or:

- i) The client lacks the strength and stability to stand, maintain balance or bear weight reliably;
  - ii) The client has not been deemed independent with adaptive equipment or assistive devices by a Licensed Medical Professional;
  - iii) The use of a mechanical lift is needed.
- h. Bowel care performed when health maintenance-level skin care or transfers are required in conjunction with the bowel care, or:
  - i) The client is unable to assist or direct care;
  - ii) Administration of a bowel program including but not limited to digital stimulation, enemas, or suppositories;
  - iii) Care of a colostomy or ileostomy that includes emptying and changing the ostomy bag and application of prescribed skin care products at the site of the ostomy.
- i. Bladder care performed when health maintenance-level skin care or transfers are required in conjunction with bladder care, or:
  - i) The client is unable to assist or direct care;
  - ii) Care of external, indwelling and suprapubic catheters;
  - iii) Changing from a leg to a bed bag and cleaning of tubing and bags as well as perineal care.
- j. Medical management as directed by a Licensed Medical Professional to routinely monitor a documented health condition, including but not limited to: blood pressures, pulses, respiratory rate, blood sugars, oxygen saturations, intravenous or intramuscular injections.
- k. Respiratory care:
  - i) Postural drainage;
  - ii) Cupping;
  - iii) Adjusting oxygen flow within established parameters;
  - iv) Suctioning mouth and/or nose;
  - v) Nebulizers;



- vi) Ventilator and tracheostomy care;
- vii) Assistance with set-up and use of respiratory equipment.
- l. Bathing assistance is considered a health maintenance task when the client requires health maintenance-level skin care, transfers or dressing in conjunction with bathing.
- m. Medication assistance, which may include setup, handling and administering medications.
- n. Accompanying includes going with the client, as necessary according to the care plan, to medical appointments, and errands such as banking and household shopping. Accompanying the client to provide one or more health maintenance tasks as needed during the trip. Attendant may assist with communication, documentation, verbal prompting and/or hands on assistance when the task cannot be completed without the support of the Attendant.
- o. Mobility assistance is considered a health maintenance task when health maintenance-level transfers are required in conjunction with the mobility assistance, or:
  - i) The client is unable to assist or direct care;
  - ii) When hands-on assistance is required for safe ambulation and the client is unable to maintain balance or to bear weight reliably due to illness, injury, or disability; and/or
  - iii) The client has not been deemed independent with adaptive equipment or assistive devices ordered by a Licensed Medical Professional
- p. Positioning includes moving the client from the starting position to a new position while maintaining proper body alignment, support to a client's extremities and avoiding skin breakdown. May be performed when health maintenance level skin care is required in conjunction with positioning, or;
  - i) The client is unable to assist or direct care, or
  - ii) The client is unable to complete task independently

4. Services that may be directed by the client or their selected AR under the Home and Community Based Supported Living Services (HCBS-SLS) waiver are as follows:
  - a. Homemaker services, as defined at Section 8.500.94.
  - b. Personal care services, as defined at Section 8.500.94.
  - c. Health maintenance activities as defined at Section 8.500.94.

**8.510.4 EXCLUDED SERVICES**

8.510.4.A. CDASS Attendants are not authorized to perform services and payment is prohibited:

1. While client is admitted to a nursing facility, hospital, a long-term care facility or incarcerated;
2. Following the death of client;
3. That are duplicative or overlapping. The Attendant cannot be reimbursed to perform tasks at the time a client is concurrently receiving a waiver service in which the provider is required to perform the tasks in conjunction with the service being rendered;

B. Companionship is not a covered CDASS service.

**8.510.5 ATTENDANT SUPPORT MANAGEMENT PLAN**

8.510.5.A. The client/AR shall develop a written ASMP after completion of training but prior to the start date of services, which shall be reviewed by the Training and Operations Vendor and approved by the Case Manager. CDASS shall not begin until the Case Manager approves the plan and provides a start date to the FMS. The ASMP is required following initial training and retraining and shall be modified when there is a change in the client's needs. The plan shall describe the client's:

1. Needed Attendant support;
2. Plans for locating and hiring Attendants;
3. Plans for handling emergencies;
4. Assurances and plans regarding direction of CDASS Services, as described at 8.510.3 and 8.510.6, if applicable.
5. Plans for budget management within the client's Allocation.
6. Designation of an AR, if applicable.

7. Designation of regular and back-up employees proposed or approved for hire.

8.510.5.B. If the ASMP is disapproved by the Case Manager, the client or AR has the right to review the disapproval. The client or AR shall submit a written request to the CMA stating the reason for the review and justification of the proposed ASMP. The client's most recently approved ASMP shall remain in effect while the review is in process.

**8.510.6 CLIENT/AR RESPONSIBILITES**

8.510.6.A. Client/AR responsibilities for CDASS Management:

1. Complete training provided by the Training and Operations Vendor. Clients who cannot complete trainings shall designate an AR.
2. Develop an ASMP at initial enrollment and at time of an Allocation change based on the client's needs.
3. Determine wages for each Attendant not to exceed the rate established by the Department. Wages shall be established in accordance with Colorado Department of Labor and Employment standards including, but not limited to, minimum wage and overtime requirements. Attendant wages may not be below the state and federal requirements at the location where the service is provided.
4. Determine the required qualifications for Attendants.
5. Recruit, hire and manage Attendants.
6. Complete employment reference checks on Attendants.
7. Train Attendants to meet the client's needs. When necessary to meet the goals of the ASMP, the client/AR shall verify that each Attendant has been or will be trained in all necessary health maintenance activities prior to performance by the Attendant.
8. Terminate Attendants when necessary, including when an Attendant is not meeting the client's needs.
9. Operate as the Attendant's legal employer of record.
10. Complete necessary employment-related functions through the FMS vendor, including hiring and termination of Attendants and employer-related paperwork necessary to obtain an employer tax ID.
11. Ensure all Attendant employment documents have been completed and accepted by the FMS vendor prior to beginning Attendant services.
12. Follow all relevant laws and regulations applicable to the supervision of Attendants.

13. Explain the role of the FMS vendor to the Attendant.
  14. Budget for Attendant care within the established monthly and CDASS Certification Period Allocation. Services that exceed the client's monthly CDASS Allocation by 30% or higher are not allowed and cannot be authorized by the client or AR for reimbursement through the FMS vendor.
  15. Authorize Attendant to perform services allowed through CDASS.
  16. Review all Attendant timesheets and statements for accuracy of time worked, completeness, and client/AR and Attendant signatures. Timesheets shall reflect actual time spent providing CDASS.
  17. Review and submit approved Attendant timesheets to the FMS by the established timelines for Attendant reimbursement.
  18. Authorize the FMS vendor to make any changes in the Attendant wages.
  19. Understand that misrepresentations or false statements may result in administrative penalties, criminal prosecution, and/or termination from CDASS. Client/AR is responsible for assuring timesheets submitted are not altered in any way and that any misrepresentations are immediately reported to the FMS vendor.
  20. Completing and managing all paperwork and maintaining employment records.
  21. Select an FMS vendor upon enrollment into CDASS.
- 8.510.6.B. Client/AR responsibilities for Verification:
1. Sign and return a responsibilities acknowledgement form for activities listed in 8.510.6 to the Case Manager.
- 8.510.6.C. Clients utilizing CDASS have the following rights:
1. Right to receive training on managing CDASS.
  2. Right to receive program materials in accessible format.
  3. Right to receive advance Notification of changes to CDASS.
  4. Right to participate in Department-sponsored opportunities for input.
  5. Clients using CDASS have the right to transition to alternative service delivery options at any time. The Case Manager shall coordinate the transition and referral process.

6. A client/AR may request a reassessment if the client's level of service needs have changed.
7. A client/AR may revise the ASMP at any time with Case Manager approval.

**8.510.7 AUTHORIZED REPRESENTATIVES (AR)**

- 8.510.7.A. A person who has been designated as an AR shall submit an AR designation affidavit attesting that he or she:
1. Is least eighteen years of age;
  2. Has known the eligible person for at least two years;
  3. Has not been convicted of any crime involving exploitation, abuse, or assault on another person; and
  4. Does not have a mental, emotional, or physical condition that could result in harm to the client.
- 8.510.7.B. CDASS clients who require an AR may not serve as an AR for another CDASS client.
- 8.510.7.C. An AR shall not receive reimbursement for CDASS AR services and shall not be reimbursed as an Attendant for the client they represent.
- 8.510.7.D. An AR must comply with all requirements contained in 8.510.6.

**8.510.8 ATTENDANTS**

- 8.510.8.A. Attendants shall be at least 18 years of age and demonstrate competency in caring for the client to the satisfaction of the client/AR.
- 8.510.8.B. Attendants may not be reimbursed for more than 24 hours of CDASS service in one day for one or more clients collectively.
- 8.510.8.C. An AR shall not be employed as an Attendant for the same client for whom they are an AR.
- 8.510.8.D. Attendants must be able to perform the tasks on the ASMP they are being reimbursed for and the client must have adequate Attendants to assure compliance with all tasks on the ASMP.
- 8.510.8.E. Attendant timesheets submitted for approval must be accurate and reflect time worked.

- 8.510.8.F. Attendants shall not misrepresent themselves to the public as a licensed nurse, a certified nurse's aide, a licensed practical or professional nurse, a registered nurse or a registered professional nurse.
- 8.510.8.G. Attendants shall not have had his or her license as a nurse or certification as a nurse aide suspended or revoked or his or her application for such license or certification denied.
- 8.510.8.H. Attendants shall receive an hourly wage based on the rate negotiated between the Attendant and the client/AR not to exceed the amount established by the Department. The FMS vendor shall make all payments from the client's Allocation under the direction of the client/AR within the limits established by the Department.
- 8.510.8.I. Attendants are not eligible for hire if their background check identifies a conviction of a crime that the Department has identified as a barrier crime that can create a health and safety risk to the client. A list of barrier crimes is available through the Training and Operations Vendor and FMS vendors.
- 8.510.8.J. Attendants may not participate in training provided by the Training and Operations Vendor. Clients may request to have their Attendant, or a person of their choice, present to assist them during the training based on their personal assistance needs. Attendants may not be present during the budgeting portion of the training.

**8.510.9 FINANCIAL MANAGEMENT SERVICES (FMS)**

- 8.510.9.A. FMS vendors shall be responsible for the following tasks:
1. Collect and process timesheets submitted by attendants within agreed-upon timeframes as identified in FMS vendor materials and websites.
  2. Conduct payroll functions, including withholding employment-related taxes such as workers' compensation insurance, unemployment benefits, withholding of all federal and state taxes, and compliance with federal and state laws regarding overtime pay and minimum wage.
  3. Distribute paychecks in accordance with agreements made with client/AR and timelines established by the Colorado Department of Labor and Employment.
  4. Submit authorized claims for CDASS provided to an eligible client.
  5. Verify Attendants' citizenship status and maintain copies of I-9 documents.
  6. Track and report utilization of client allocations.
  7. Comply with Department regulations and the FMS vendor contract with the Department.

- 8.510.9.B. In addition to the requirements set forth at 8.510.9.A, the FMS vendor operating under the F/EA model shall be responsible for obtaining designation as a Fiscal/Employer Agent in accordance with Section 3504 of the Internal Revenue Code. This statute is hereby incorporated by reference. The incorporation of these statutes excludes later amendments to, or editions of the referenced material. Pursuant to C.R.S. § 24-4-103(12.5), the Department maintains copies of this incorporated text in its entirety, available for public inspection during regular business hours at 1570 Grant Street, Denver, CO, 80203. Certified copies of incorporated materials are provided at cost upon request.

**8.510.10 SELECTION OF FMS VENDORS**

- 8.510.10.A. The client/AR shall select an FMS vendor at the time of enrollment into CDASS from the vendors contracted with the Department.
- 8.510.10.B. The client/AR may select a new FMS vendor during the designated open enrollment periods. The client/AR shall remain with the selected FMS vendor until the transition to the new FMS vendor is completed.

**8.510.11 START OF SERVICES**

- 8.510.11.A. The CDASS start date shall not occur until all of the requirements contained in 8.510.2, 8.510.5, 8.510.6 and 8.510.8 have been met.
- 8.510.11.B. The Case Manager shall approve the ASMP, establish a service period, submit a PAR and receive a PAR approval before a client is given a start date and can begin CDASS.
- 8.510.11.C. The FMS vendor shall process the Attendant's employment packet within the Department's prescribed timeframe and ensure the client has a minimum of two approved Attendants prior to starting CDASS. The client must maintain employment relationships with two Attendants while participating in CDASS.
- 8.510.11.D. The FMS vendor will not reimburse Attendants for services provided prior to the CDASS start date. Attendants are not approved until the FMS vendor provides the client/AR with employee numbers and confirms Attendants' employment status.
- 8.510.11.E. If a client is transitioning from a hospital, nursing facility, or HCBS agency services, the Case Manager shall coordinate with the discharge coordinator to ensure that the client's discharge date and CDASS start date correspond.

**8.510.12 SERVICE SUBSTITUTION**

- 8.510.12.A. Once a start date has been established for CDASS, the Case Manager shall establish an end date and discontinue the client from any other Medicaid-funded

Attendant support including Long Term Home Health, homemaker and personal care services effective as of the start date of CDASS.

8.510.12.B. Case Managers shall not authorize PARs with concurrent payments for CDASS and other waiver service delivery options for Personal Care services, Homemaker services, and Health Maintenance Activities for the same client.

8.510.12.C. Clients may receive up to sixty days of Medicaid Acute Home Health services directly following acute episodes as defined by 8.523.11.K.1. CDASS service plans shall be modified to ensure no duplication of services.

8.510.12.D. Clients may receive Hospice services in conjunction with CDASS services. CDASS service plans shall be modified to ensure no duplication of services.

**8.510.13 FAILURE TO MEET CLIENT/AR RESPONSIBILITIES**

8.510.13.A. If a client/AR fails to meet their CDASS responsibilities, the client may be terminated from CDASS. Prior to a client being terminated from CDASS the following steps shall be taken:

1. Mandatory re-training conducted by the contracted Training and Operations Vendor.
2. Required designation of an AR if one is not in place, or mandatory re-designation of an AR if one has already been assigned.

8.510.13.B. Actions requiring retraining, or appointment or change of an AR include any of the following:

1. The client/AR does not comply with CDASS program requirements including service exclusions.
2. The client/AR demonstrates an inability to manage Attendant support.
3. The client no longer meets program eligibility criteria due to deterioration in physical or cognitive health as determined by the client's physician, physician assistant, or advance practice nurse.
4. The client/AR spends the monthly Allocation in a manner causing premature depletion of funds without authorization from the Case Manager or reserved funds. The Case Manager will follow the service utilization protocol.
5. The client/AR exhibits Inappropriate Behavior as defined at 8.510.1 toward Attendants, Case Managers, the Training and Operations Vendor, or the FMS vendor.
6. The client/AR authorizes the Attendant to perform services while the client is in a nursing facility, hospital, a long-term care facility or while incarcerated.



**8.510.14 IMMEDIATE INVOLUNTARY TERMINATION**

8.510.14.A. Clients may be involuntarily terminated immediately from CDASS for the following reasons:

1. A client no longer meets program criteria due to deterioration in physical or cognitive health AND the client refuses to designate an AR to direct services.
2. The client/AR demonstrates a consistent pattern of overspending their monthly Allocation leading to the premature depletion of funds AND the Case Manager has determined that attempts using the service utilization protocol to assist the client/AR to resolve the overspending have failed.
3. The client/AR exhibits Inappropriate Behavior as defined at 8.510.1 toward Attendants, Case Managers, the Training and Operations Vendor or the FMS vendor, and the Department has determined that the Training and Operations Vendor has made attempts to assist the client/AR to resolve the Inappropriate Behavior or assign a new AR, and those attempts have failed.
4. Client/AR authorized the Attendant to perform services for a person other than the client, authorized services not available in CDASS, or allowed services to be performed while the client is in a hospital, nursing facility, a long term care facility or while incarcerated and the Department has determined the Training and Operations Vendor has made adequate attempts to assist the client/AR in managing appropriate services through retraining.
5. Intentional submission of fraudulent CDASS documents or information to Case Managers, the Training and Operations Vendor, the Department, or the FMS vendor.
6. Instances of proven fraud, abuse, and/or theft in connection with the Colorado Medical Assistance program.
7. Client/AR fails to complete retraining, appoint an AR, or remediate CDASS management per 8.510.13.A.

**8.510.15 ENDING THE CDASS DELIVERY OPTION**

8.510.15.A. If a client chooses to use an alternate care option or is terminated involuntarily, the client will be terminated from CDASS when the Case Manager has secured an adequate alternative to CDASS in the community.

8.510.15.B. In the event of discontinuation of or termination from CDASS, the Case Manager shall:

1. Complete the Notice Services Status (LTC-803) and provide the client or AR with the reasons for termination, information about the client's rights to fair hearing, and appeal procedures. Once notice has been given for termination, the client or

AR may contact the Case Manager for assistance in obtaining other home care services or additional benefits, if needed.

2. The Case Manager has thirty (30) calendar days prior to the date of termination to discontinue CDASS and begin alternate care services. Exceptions may be made to increase or decrease the thirty (30) day advance notice requirement when the Department has documented that there is danger to the client. The Case Manager shall notify the FMS vendor of the date on which the client is being terminated from CDASS.
- 8.510.15.C. Clients who are involuntarily terminated pursuant to 8.510.14.A.2., 8.510.14.A.4., 8.510.14.A.5, 8.510.14.A.6., and 8.510.14.A.7. may not be re-enrolled in CDASS as a service delivery option.
- 8.510.15.D. Clients who are involuntary terminated pursuant to 8.510.14.A.1. are eligible for enrollment in CDASS with the appointment of an AR or eligibility documentation as defined at 8.510.2.A.5. The client or AR must have successfully completed CDASS training prior to enrollment in CDASS.
- 8.510.15.E. Clients who are involuntary terminated pursuant to 8.510.14.A.3 are eligible for enrollment in CDASS with the appointment of an AR. The client must meet all CDASS eligibility requirements with the AR completing CDASS training prior to enrollment in CDASS.

#### **8.510.16 CASE MANAGEMENT FUNCTIONS**

- 8.510.16.A. The Case Manager shall review and approve the ASMP completed by the client/AR. The Case Manager shall notify the client/AR of ASMP approval and establish a service period and Allocation.
- 8.510.16.B. If the Case Manager determines that the ASMP is inadequate to meet the client's CDASS needs, the Case Manager shall work with the client/AR to complete a fully-developed ASMP.
- 8.510.16.C. The Case Manager shall calculate the Allocation for each client who chooses CDASS as follows:
1. Calculate the number of personal care, homemaker, and health maintenance activities hours needed on a monthly basis using the Department's prescribed method. The needs determined for the Allocation should reflect the needs in the Department-approved assessment tool and the service plan. The Case Manager shall use the Department's established rate for personal care, homemaker, and health maintenance activities to determine the client's Allocation.
  2. The Allocation should be determined using the Department's prescribed method at the client's initial CDASS enrollment and at reassessment. Service authorization will align with the client's need for services and adhere to all service

authorization requirements and limitations established by the client's waiver program.

3. Allocations that exceed care in an institutional setting cannot be authorized by the Case Manager without Department approval. The Case Manager will follow the Department's over-cost containment process and receive authorization prior to authorizing a start date for Attendant services.
- 8.510.16.D. Prior to training or when an Allocation changes, the Case Manager shall provide written Notification of the Allocation to the client and the AR, if applicable.
- 8.510.16.E. A client or AR who believes the client needs a change in Attendant support, may request the Case Manager to perform a review of the CDASS Task Worksheet and Allocation for services. Review should be completed within five (5) business days.
1. If the review indicates that a change in Attendant support is justified, the following actions will be taken:
    - a. The Case Manager shall provide notice of the Allocation change to the client/AR utilizing a long-term care notice of action form within ten (10) business days regarding their appeal rights in accordance with Section 8.057, et seq.
    - b. The Case Manager shall complete a PAR revision indicating the increase in CDASS Allocation using the Department's Medicaid Management Information System and FMS vendor system. PAR revisions shall be completed within five (5) business days of the Allocation determination.
    - c. The client/AR shall amend the ASMP and submit it to the Case Manager.
  2. The Training and Operations Vendor is available to facilitate a review of services and provide mediation when there is a disagreement in the services authorized on the CDASS Task Worksheet.
  3. The Case Manager will notify the client of CDASS Allocation approval or disapproval by providing a long-term care notice of action form to clients within ten (10) business days regarding their appeal rights in accordance with Section 8.057, et seq.
- 8.510.16.F. In approving an increase in the client's Allocation, the Case Manager shall consider all of the following:
1. Any deterioration in the client's functioning or change in availability of natural supports, meaning assistance provided to the client without the requirement or expectation of compensation.

2. The appropriateness of Attendant wages as determined by Department's established rate for equivalent services.
  3. The appropriate use and application of funds for CDASS services.
- 8.510.16.G. In reducing a client's Allocation, the Case Manager shall consider:
1. Improvement of functional condition or changes in the available natural supports.
  2. Inaccuracies or misrepresentation in the client's previously reported condition or need for service.
  3. The appropriate use and application of funds for CDASS services.
- 8.510.16.H. Case Managers shall cease payments for all existing Medicaid-funded personal care, homemaker, health maintenance activities and/or Long-Term Home Health as defined under the Home Health Program at Section §8.520 et seq. as of the client's CDASS start date.
- 8.510.16.I. For effective coordination, monitoring and evaluation of clients receiving CDASS, the Case Manager shall:
1. Contact the CDASS client/AR once a month during the first three months to assess their CDASS management, their satisfaction with Attendants, and the quality of services received. Case Managers may refer clients/ARs to the FMS vendor for assistance with payroll and to the Training and Operations Vendor for training needs, budgeting, and supports.
  2. Contact the client/AR quarterly after the first three months to assess their implementation of Attendant services, CDASS management issues, quality of care, Allocation expenditures, and general satisfaction.
  3. Contact the client/AR when a change in AR occurs and contact the client/AR once a month for three months after the change takes place.
  4. Review monthly FMS vendor reports to monitor Allocation spending patterns and service utilization to ensure appropriate budgeting and follow up with the client/AR when discrepancies occur.
  5. Utilize Department overspending protocol when needed to assist CDASS clients/AR.
  6. Follow protocols established by the Department for case management activities.
- 8.510.16.J. Reassessment: The Case Manager will follow in-person and phone contact requirements based on the client's waiver program. Contacts shall include a review of care needs, the ASMP, and documentation from the physician,

physician assistant, or advance practice nurse stating the client's ability to direct care.

- 8.510.16.K. Case Managers shall participate in training and consulting opportunities with the Department's contracted Training and Operations Vendor.

**8.510.17 ATTENDANT REIMBURSEMENT**

- 8.510.17.A. Attendants shall receive an hourly wage not to exceed the rate established by the Department and negotiated between the Attendant and the client/AR hiring the Attendant. The FMS vendor shall make all payments from the client's Allocation under the direction of the client/AR. Attendant wages shall be commensurate with the level of skill required for the task and wages shall be justified in the ASMP.

- 8.510.17.B. Attendant timesheets that exceed the client's monthly CDASS Allocation by 30% or more are not allowed and cannot be authorized by the client or AR for reimbursement through the FMS vendor.

- 8.510.17.C. Once the client's yearly Allocation is used, further payment will not be made by the FMS vendor, even if timesheets are submitted. Reimbursement to Attendants for services provided when a client is no longer eligible for CDASS or when the client's Allocation has been depleted are the responsibility of the client/AR.

- 8.510.17.D. Allocations that exceed the cost of providing services in a facility cannot be authorized by the Case Manager without Department approval.

**8.510.18 REIMBURSEMENT TO FAMILY MEMBERS**

- 8.510.18.A. Family Members/legal guardians may be employed by the client/AR to provide CDASS, subject to the conditions below.

- 8.510.18.B. The family member or legal guardian shall be employed by the client/AR and be supervised by the client/AR.

- 8.510.18.C. The Family Member and/or legal guardian being reimbursed as a personal care, homemaker, and/or health maintenance activities Attendant shall be reimbursed at an hourly rate with the following restrictions:

1. A Family Member and/or legal guardian shall not be reimbursed for more than forty (40) hours of CDASS in a seven-day period from 12:00 am on Sunday to 11:59 pm on Saturday.
2. Family Member wages shall be commensurate with the level of skill required for the task and should not deviate from that of a non-Family Member Attendant unless there is evidence of that the Family Member has a higher level of skill.

3. A member of the client's household may only be paid to furnish extraordinary care as determined by the Case Manager. Extraordinary care is determined by assessing whether the care to be provided exceeds the range of care that a Family Member would ordinarily perform in the household on behalf of a person without a disability or chronic illness of the same age, and which is necessary to assure the health and welfare of the client and avoid institutionalization. Extraordinary care shall be documented on the service plan.
- 8.510.18.D. A client/AR who chooses a Family Member as a care provider, shall document the choice on the ASMP.