



# COLORADO

Department of Health Care  
Policy & Financing

Medical Services Board

## **APRIL 2021 EMERGENCY JUSTIFICATION FOR MEDICAL ASSISTANCE RULES ADOPTED AT THE APRIL 9, 2021 EMERGENCY MEDICAL SERVICES BOARD MEETING**

### **MSB 21-03-23-A, Revision to the Medical Assistance Act Rule concerning Novel Corona Virus Disease (COVID-19) Rules, Section 8.6000**

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. The temporary changes to regulatory requirements in order to provide enhanced flexibility, reduction to programmatic limitations, and alignment with existing federal guidance related to processes under the COVID-19 pandemic is imperatively necessary for the preservation of public health safety, and welfare.

### **MSB 21-03-24-A, Revision to the Medical Assistance Rule concerning Provider Enrollment, Sections 8.125.11, 8.125.12, 8.125.13**

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. The purpose of this emergency rule is to temporarily change regulatory requirements for Department of Health Care Policy and Financing rules to provide enhanced flexibility, reduction to programmatic limitations, and alignment with existing federal guidance related to processes under the COVID-19 pandemic. The temporary changes to regulatory requirements in order to provide enhanced flexibility, reduction to programmatic limitations, and alignment with existing federal guidance related to processes under the COVID-19 pandemic is imperatively necessary for the preservation of public health safety, and welfare.

### **MSB 21-03-24-B, Revision to the Medical Assistance Act Rule concerning Emergency Medical Transportation, Sections 8.018.1.F. and 8.018.4.D.1**

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. Under the Department's current rule, ambulance trips may only be taken to a limited set of medical facilities, the "closest, most appropriate Facility." CMS recently issued an expanded list of allowable destinations for ambulance trips that qualify for Medicare reimbursement during the COVID-19 public health



emergency. This rule will align the Department with that new CMS Medicare guidance by expanding our definition of Facility. The goal is to allow EMT providers to take members to a wider range of medical facilities that are appropriate to the member's condition but that are not necessarily hospitals. This will help prevent hospital overcrowding while also getting members the most appropriate medical care, and will allow utilization of temporary and alternative care sites.

The second change relates to interfacility transportation, which is ambulance transportation from one facility to another, provided the member requires basic or advanced life support en route. This revision suspends the life support requirement. This will allow for members to be moved from one facility to another if they need continued COVID-19-related care, but do not require life support en route. This is imperatively necessary for the preservation of public health safety, and welfare.

**MSB 21-03-24-C, Revision to the Medical Assistance Act Rule concerning Non-Emergent Medical Transportation, Sections 8.014.1.N, 8.014.3.C.2, 8.014.3.D.1, 8.014.4.A, 8.014.6.A.3**

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. Permitting NEMT trips to non-covered places of service will prevent hospital overcrowding while ensuring that members receive treatment for COVID-19. The change allows flexibility and takes advantage of newly established alternative care sites that may be temporary in nature and thus not enrolled in the Colorado Medical Assistance Program. If members with COVID-19 can only receive care at covered places of service, those sites may become overcrowded and may see a shortage of available beds.

Suspending multi-loading will ensure compliance with social distancing guidelines by limiting a vehicle's occupants. It is imperatively necessary for the preservation of public health safety, and welfare.

**MSB 21-03-26-A, Revision to the Medical Assistance Act Rule concerning Immunization Services, Section 8.815**

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. This revision is necessary to comply with section 6008(b)(4) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), P.L. 116-136. This provision requires the Department to be able to reimburse for administration of the COVID-19 vaccine currently being developed. It is imperatively necessary for the preservation of public health safety, and welfare.

**MSB 21-03-26-B, Revision to the Medical Assistance Act Rule concerning Nursing Facility Immunization Administration, Sections 8.443 and 8.815**

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. This rule revision will allow the Department to reimburse pharmacies for administration of the COVID-19 vaccine in Long-term Care Facilities through the Centers for Disease Control and Prevention's (CDC's) Pharmacy



Partnership for Long-term Care Program or other partnership between an LTC and a pharmacy. These revisions are required to facilitate administration of the forthcoming COVID-19 vaccine to nursing home facility residents and is imperatively necessary for the preservation of public health safety, and welfare.

**MSB 21-03-26-C, Revision to the Medical Assistance Act Rule concerning Subacute Care, Sections 8.300.3 & 8.300.5**

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. Addition of subacute care to the list of the covered services for inpatient hospitals, and associated alternate care facilities, increases access to such care for the duration of the COVID-19 public health emergency and is imperatively necessary for the preservation of public health, safety, and welfare.

**MSB 21-03-30-A, Revision to the Medical Assistance Rule concerning Medical Assistance program rule updates, Sections 8.100.1, 8.100.3, 8.100.4, 8.100.5 and 8.100.6**

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. The proposed rule change will amend 10 CCR 2505-10 sections 8.100.1, 8.100.3, 8.100.4, 8.100.5 and 8.100.6 based on the Coronavirus Aid, Relief, and Economic Security (CARES) Act, the Families First Coronavirus Response Act (FFCRA) and the Affordable Care Act (ACA), which includes the Maintenance of Effort (MOE) provision. All policy revisions will align with federal regulations for the state to be in compliance during the federal Coronavirus (COVID-19) Public Health Emergency. These changes will impact all Medical Assistance categories and these policy changes will stay in place until the end of the federal Coronavirus (COVID-19) Public Health Emergency. The following policy changes are: Self-attestation for most verifications will be acceptable to be in compliance with the Maintenance of Effort (MOE) provision to ensure the continuance of health coverage for all eligible members. When a member is not reasonable compatible based off income a member self-attests, documentation will not be required, and the member will remain eligible for Medical Assistance. Self-attestation of resources will be acceptable for Non-MAGI programs. Premiums for the Buy-In program will be waived. Required through the Federal CARES Act for the Maintenance of Effort (MOE), members who had a loss of employment will remain in the Buy-In program. Newly enrolled members will still need to meet the work requirements. For applicants who are not eligible for Medical Assistance but have been exposed or who are potentially infected by the COVID-19, will be eligible for Medical Assistance for related COVID testing. The economic stimulus relief package designed to provide direct assistance to individuals to help offset the financial impacts of the COVID-19 Public Health Emergency will be exempt for MAGI and Non-MAGI eligibility determinations. The economic stimulus will not be a countable resource for 12 months for any Non-MAGI financial eligibility determinations that include a resource test. Lastly, the Federal Pandemic Unemployment Compensation (FPUC) program which provides an extra \$600.00 a week is not countable unearned income for Medical Assistance categories. This rule change is crucial for the preservation of public health, safety, and welfare.



**MSB 21-04-07-A, Revision to the Medical Assistance Act Rule concerning Private Duty Nursing and Long-Term Home Health Prior Authorization Requirements, Sections 8.520 and 8.540**

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. These revisions are required to bring Department regulations in line with current practice. The Department otherwise risks deferral or disallowance from CMS for being out of compliance. A deferral or disallowance would impact the Department's ability to provide adequate services to members. This rule change is necessary for the preservation of public health, safety, and welfare.

