



# COLORADO

Department of Health Care  
Policy & Financing

Medical Services Board

## NOTICE OF PROPOSED RULES

The Medical Services Board of the Colorado Department of Health Care Policy and Financing will hold a public meeting on Friday, October 14, 2022, beginning at 9:00 a.m., in the first floor conference room at 1570 Grant Street, 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](mailto:chris.sykes@state.co.us) or the 504/ADA Coordinator [hcpf504ada@state.co.us](mailto:hcpf504ada@state.co.us) at least one week prior to the meeting.

A copy of the full text of these proposed rule changes is available for review from the Medical Services Board Office, 1570 Grant Street, Denver, Colorado 80203, (303) 866-4416, fax (303) 866-4411. Written comments may be submitted to the Medical Services Board Office on or before close of business the Wednesday prior to the meeting. Additionally, the full text of all proposed changes will be available approximately one week prior to the meeting on the Department's website at [www.colorado.gov/hcpf/medical-services-board](http://www.colorado.gov/hcpf/medical-services-board).

This notice is submitted pursuant to § 24-4-103(3)(a) and (11)(a), C.R.S.

### **MSB 22-04-06-A, Revision to the Medical Assistance Act Rule concerning In-State Inpatient Hospital High Acuity Rate Negotiation, Section 8.300.5.G**

Medical Assistance. The in-state inpatient hospital high acuity rate negotiation rule section requires updating to match a State Plan Amendment (SPA) recently approved by CMS. The SPA includes more specific requirements and limitations not currently included in the broad rule language. In particular, the SPA language is more specific than the broad language of the rule by requiring the hospital to submit evidence that the standard inpatient methodology is insufficient (including, but not limited to, an anticipated cost report for Department review) and limiting the negotiated high acuity rate increase to no more than 100% of the costs anticipated by the hospital (as indicated in the hospital's anticipated cost report). This rulemaking is necessary to align the rule with the State Plan.

The authority for this rule is contained in 42 CFR 440.10 (2021); Section 25.5-5-102(1)(a), C.R.S. (2021) and Sections 25.5-1-301 through 25.5-1-303 (2022).

### **MSB 22-08-29-B, Revision to the Special Financing Division Colorado Dental Health Care Program for Low-Income Seniors Schedule A, Section 8.960.**

Medical Assistance. Current rule mandates that the Colorado Dental Health Care Program for Low-Income Senior max program payments on Schedule A may not be less than Medicaid dental rates. Effective July 1, 2022, Medicaid dental rates were increased and two procedures under the program fell below the Medicaid rate. The procedures to be increased to match Medicaid rates are D1354, interim caries arresting medicament application-per tooth and D9219, evaluation for moderate sedation, deep sedation or general anesthesia.

The Dental Advisory Committee also recommended the addition of two new procedures. D7261, primary closure of a sinus perforation, this is exposure of sinus requiring repair, or immediate closure of oroantral or oralnasal communication in absence of fistulous tract. At this time, if seniors

need this repair done the program does not cover this procedure. This leaves the senior with side effects and prosthodontics are not able to be placed. The low-income aging population is not able to pay for this type of repair. The other procedure is D9239, intravenous moderate (conscious) sedation/analgesia, first 15 minutes. Sedation is currently covered through the program, except for the first 15 minutes. Many seniors will forgo having much needed oral health care due to not being able to afford the first 15 minutes of sedation.

The authority for this rule is contained in 42 C.F.R. 162-1002(a)(4); 25.5-2-101, C.R.S. (2022); 25.5-3-404(4), C.R.S. (2022) and Sections 25.5-1-301 through 25.5-1-303 (2022).

### **MSB 22-08-29-A, Revision to the Medical Assistance Act Rule concerning Private Duty Nursing Benefits, Section 8.540.2**

Medical Assistance. This rule sets forth the authority for the Private Duty Nursing benefit under the Health First Colorado State Plan. Private Duty Nursing provides nursing services for beneficiaries who require more individual and continuous care than is available from a visiting nurse or routinely provided by the nursing staff of the hospital or skilled nursing facility. In order to meet the urgent care needs of our members, the Department must create an exception process to meet the potentially unmet needs of our members. Current regulation states that adult members may not receive more than 16 hours per day of Private Duty Nursing. By revising the regulations to allow for an exception process to the limit, members will have access to medically necessary nursing services they require.

The authority for this rule is contained in 42 C.F.R. § 440.80; Section § 25.5-5-303. (2022) and Sections 25.5-1-301 through 25.5-1-303 (2022).

### **MSB 22-08-29-C, Revision to the Medical Assistance Act Rule concerning Long-Term Home Health Prior Authorization Correction, Section 8.520.8.C.1**

Medical Assistance. The original language of Section 8.520.8.C.1 was inadvertently deleted along with the new prior authorization reinstatement language in Sections 8.520.8.C.1.a-j. This emergency rulemaking restores the original Section 8.520.8.C.1 language that preceded the addition of the prior authorization reinstatement language in Sections 8.520.8.C.1.a-j. This does not alter the current Department policy to temporarily pause the pediatric long-term home health prior authorization reinstatement process, effective November 1, 2021 until at least March 2024.

The Department recently met with Health First Colorado (Colorado's Medicaid program) members and families, providers, and other stakeholders about concerns related to the pediatric long-term home health (LTHH) benefit prior authorization request (PAR) reinstatement process. Based on these conversations, the Department has made the decision to temporarily pause the PAR process effective November 1, 2021 until at least March 2024.

The pause allows the Department and partners time to robustly engage with stakeholders, train providers on operational changes, evaluate benefit policy, and notify Health First Colorado members before the pause is lifted. This also gives the Department time to ensure full compliance with

federal and state policy while keeping Health First Colorado members and their needs front and center.

The authority for this rule is contained in Sections 25.5-1-301 through 25.5-1-303 (2022).