



COLORADO

**Department of Health Care
Policy & Financing**

Department of Health Care Policy & Financing
1570 Grant Street
Denver, CO 80203

November 1, 2018

Members of the Colorado General Assembly
c/o the Staff of the Legislative Council
State Capitol Building
200 East Colfax
Denver, Colorado 80203

Dear Members of the General Assembly:

I am pleased to submit the Department of Health Care Policy and Financing (HCPF)'s 2018 Regulatory Agenda Report and 2019 Regulatory Agenda, in compliance with Colo. Rev. Stat. §2-7-203, as amended by House Bill 12-1008. The Department's 2019 Regulatory Agenda has also been submitted to the Colorado Secretary of State for publication in the Colorado Register, and will be posted to our website.

The Department's 2018 Regulatory Agenda Report provides a brief summary of all permanent, temporary and emergency rules reviewed, revised and adopted since the Department's 2017 Departmental Regulatory Agenda was filed on November 1, 2017, as well as the status, comments, and information relative to stakeholder input. Pursuant to Colo. Rev. Stat. § 24-4-103.3(4), the 2018 Regulatory Agenda Report also reflects the results of the Department's mandatory rule review activity over the past year. Effective July 1, 2016, all permanent rules adopted by the Department, as reflected in the 2018 Regulatory Agenda Report, involved early stakeholder engagement, as described by the Department's procedures for public participation in rulemaking (available online at <https://www.colorado.gov/hcpf/regulatory-resource-center>).

Information pertaining to a specific rule can be obtained by contacting Chris Sykes, whose contact information is available on the Department's web-site at <https://www.colorado.gov/pacific/hcpf/medical-services-board>.

Pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(II), we will be prepared to discuss our 2018 Regulatory Agenda Report and 2019 Regulatory Agenda with the Department's Joint Committee of Reference during our upcoming SMART Act hearing.

Sincerely,

A handwritten signature in black ink, appearing to read 'K Bimestefer', is written over a light blue horizontal line.

Kim Bimestefer, Executive Director
Department of Health Care Policy and Financing

Our mission is to improve health care access and outcomes for the people we serve while demonstrating sound stewardship of financial resources.
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Chris Sykes, Medical Services Board Coordinator, HCPF

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2018

Regulatory Agenda REPORT

January 1, 2018-December 31, 2018



COLORADO
Department of Health Care
Policy & Financing

Overview

The Colorado Department of Health Care Policy and Financing submits the following 2018 Regulatory Agenda Report in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4), detailing the results of the past year’s rules review activity.

Hearing or Adoption Date	Rule Number	Rule Title	New Rule, Revision, or Repeal?	Statutory or Other Basis for Adoption of Rule	Purpose of Proposed Rule	High-Level Stakeholders <i>Consider including high-level outreach bullets</i>	Status <i>Adopted/Not Adopted/Withdrawn/Ongoing</i>	Included on FY17 Agenda?
<i>Department may choose to include the originally anticipated hearing or adoption date, in addition to the actual date.</i>			<i>If only a part of a CCR is repealed, it should be classified as "Revise".</i>	<i>Statutory authority.</i>	<i>What is the rule intended to accomplish?</i>	<i>List categories of stakeholders that may be positively or negatively affected not individual stakeholders.</i>	<i>Select one of the following options: (a) adopted (include date of adoption), (b) not adopted, (c) withdrawn or (d) ongoing.</i>	<i>Select one of the following options: (a) Yes, if the rule was published in the FY17 Agenda, and (b) No, if the rule was unplanned or an emergency rule.</i>
January 2018	MSB 17-10-05-A	Revision to the Medical Assistance Special Financing Division Rule Concerning Colorado Dental Health Care Program for Low-Income Seniors, Section 8.960	Revise	25.5-3-404, C.R.S.	This rule change incorporates the new code changes in the American Dental Association CDT 2018 Code book into Appendix A.	Grantees of the Colorado Dental Health Care Program for Low-Income Seniors	A January 2018	B

February 2018	MSB 17-11-17-A	Revision to the Medical Assistance Rule Concerning Client Co-Payment, Section 8.754	Revise	42 CFR 447.52, 447.53	In accordance with 25.5-4-209(1)(c)(1), C.R.S., client co-payment for pharmacy services, hospital outpatient services, and non-emergency services in the emergency room are being increased, effective January 1, 2018	Health First Colorado members	A February 2018	B
March 2018	MSB 17-10-17-A	Revision to the Medical Assistance Rule concerning In-Home Support Services, Section 8.5520	Revise	25.5-6-1203 through 25.5-6-1205, C.R.S.	The rule amendment promotes case management initiation of services, coordination, and authority.	Health First Colorado members, providers.	A March 2018	B
March 2018	MSB 17-11-03-A	Revision to the Medical Assistance Rule concerning Nursing Facility Post Eligibility Treatment of Income - Incurred Medical Expenses, Section 8.482.33	Revise	1902(r)(1)(A) of the Social Security Act, 42 CFR § 435.832	The rule change updates regulations to reflect recent changes in related Medicaid State Plan Benefits. Nursing Facility PETI should not be used if a service is billable under the State Plan. The rule also	Health First Colorado members, providers.	A March 2018	A

					applies standard timely filing deadlines which were previously unaddressed			
April 2018	MSB 17-11-22-A	Revision to the Medical Assistance Rule concerning Outpatient Fee-for-Service SUD Providers Eligible Providers, Section 8.746.2	Revise	C.F.R. 42 §440.130(d)	This rule change expands the provider types that are eligible to bill Medicaid for providing substance use disorder services	Health First Colorado members, providers.	A April 2018	B
April 2018	MSB 18-02-16-A	Revision to the Medical Assistance Rule concerning Stiripentol Coverage, Section 8.800.4.C.5. a	Revise	42 U.S.C. § 1396d(a)(12) ; 42 CFR R § 440.120, 42 CFR § 447.502	The purpose of this rule is to expand coverage of Stiripentol, a drug used to treat Dravet Syndrome, a rare genetic dysfunction of the brain that results in seizures, to members over 20 years of age.	Health First Colorado members, providers.	A April 2018	B
April 2018	MSB 18-01-05-A	Revision to the Medical Assistance Rule concerning Hospice Benefit, Section 8.550	Revise	42 USC 1396d(o)	The proposed rule codifies existing practice by incorporating the policies documented in the Hospice Benefit	Health First Colorado members, providers.	A April 2018	B

					Coverage Standard, with no substantive policy changes.			
April 2018	MSB 18-01-16-A	Revision to the Medical Assistance Eligibility Rules Concerning Citizenship and Identity Documentation Requirements, Section 8.100.3.H	Revise	42 C.F.R. §435.407	Photocopies, facsimile, scanned, or other copies of citizenship and identity documents must now be accepted to the same extent as an original document, unless the copy submitted is inconsistent with other information available to the agency, or the agency otherwise has reason to question the validity of the information contained in the document.	Health First Colorado members, providers.	A April 2018	B
May 2018	MSB 18-02-01-A	Revision to the Medical Assistance Rule Concerning the Healthcare Affordability and Sustainability Fee Collection	Revise	42 CFR 433.68	Updates healthcare affordability and sustainability fee amounts and payments amounts in accordance with the CHASE Board's	Health First Colorado members, providers.	A May 2018	B

		and Disbursement, Section 8.3000			recommendations			
May 2018	MSB 17-09-22-B	Revision to the Medical Assistance DME Rule concerning Reimbursement, Section 8.590.7	Revise	Senate Bill 17-254	The proposed rule will increase the Durable Medical Equipment (DME) encounter rate by 1.402% to account for General Assembly funding appropriation, pursuant to SB17-254; and will bring the Department into compliance with the Consolidated Appropriations and the 21st Century Cures Act (Acts).	Health First Colorado members, providers.	A May 2018	B
May 2018	MSB 18-01-30-A	Revision to the Medical Assistance Special Financing Rule Concerning Colorado Dental Health Care Program for Low-Income Seniors,	Revise	25.5-3-404, C.R.S.	This rule change incorporates a change to restorative code, D2330; periodontics code D4355, prosthodontic (removable) codes D5621 and D5622; oral and	Health First Colorado members, providers.	A May 2018	B

		Section 8.960			maxillofacial surgery codes D7220, D7230, D7240, and D7241; and anesthesia codes, D9219, D9223 and D9243 and program payments into Appendix A			
May 2018	MSB 18-01-30-B	Revision to the Medical Assistance Rule concerning the FQHC Rule, Section 8.700	Revise	Section 1902(bb) of the Social Security Act	This rule revision contains multiple changes to current FQHC rules, including: adding new billable behavioral health provider types; revising out-stationing payment to FQHCs; changing the current Alternative Payment Methodology (APM) to reimburse different cost-based rates for physical health, dental, and specialty behavioral health services; and adding a quality	Health First Colorado members, providers.	A May 2018	B

					component to FOHC rates that will be effective July 1, 2020.			
May 2018	MSB 18-02-12-A	Revision to the Medical Assistance Rule Concerning Adding the Reasonable Compatibility Methodology to Non-MAGI Verification Requirements, Section 8.100.5.B.1.c	Revise	42 CFR 435.952	The purpose of this rule update is to further align Non-MAGI and MAGI eligibility verification policy by applying the Reasonable Compatibility to the Non-MAGI groups	Health First Colorado members, providers.	A May 2018	A
May 2018	MSB 18-02-12-B	Revision to the Medical Assistance Rule concerning Long-Term Care Institution Recipient Income - Other Deductions Reserved from the Recipient's Income, Section 8.100.7.V.3.g.ii	Revise	42 CFR 435.725	The purpose of changing the rule at 10 CCR 2505-10 § 8.100.7.V.3.g.ii is to increase Home Maintenance Allowance (HMA) which is an adjustment to patient liability for Medicaid recipients in a nursing facility	Health First Colorado members, providers.	A May 2018	A

May 2018	MSB 17-11-22-A	Revision to the Medical Assistance Rule concerning Outpatient Fee-for-Service SUD Providers Eligible Providers, Section 8.746.2	Revise	State Plan Amendment 17-0002; 42 CFR §440.130(d)	The proposed revisions to Section 8.746 will align the rule to changes made in the State Plan Amendment 17-0002	Health First Colorado members, providers.	A May 2018	B
May 2018	MSB 18-02-12-D	Revision to the Medical Assistance Rule concerning Update to the 340B Drug Discount in EAPGs and EAPG Rate Maintenance Methodology, Section 8.300.6	New rule	24-4-103(6); §25.5-4-402.4(5)(b)(l)	Increases payment to hospitals participating in the 340B Drug Discount Program by reducing the discount applied during the EAPG pricing calculation for 340B Drugs for outpatient hospital claims.	Health First Colorado members, providers.	A May 2018	B
June 2018	MSB 18-05-15-A	Revision to the Medical Assistance Rule concerning Durable Medical Equipment Reimbursement, Section 8.590.7	Revise	42 CFR 440.70, 440.120	The proposed rule will increase the Durable Medical Equipment (DME) rate by 1.0% to account for General Assembly funding appropriation, pursuant to HB 18-1322	Health First Colorado members, providers.	A June 2018	B

June 2018	MSB 18-03-01-B	Revision to the Medical Assistance Rule concerning the Pharmacy Prior Authorization Timeline, Section 8.800.7.B	Revise	Section 1927(d)(2) of the Social Security Act	The requirements of this section create an unrealistic timeline for prescribers and Department staff to process pharmaceutical prior-authorization requests that require additional information	Health First Colorado members, providers.	A June 2018	B
June 2018	MSB 18-02-01-A	Revision to the Healthcare Affordability and Sustainability Fee Collection and Disbursement, Section 8.3000	Revise	42 CFR 433.68	Updates healthcare affordability and sustainability fee amounts and payments amounts in accordance with the CHASE Board's recommendations	Health First Colorado members, providers.	A June 2018	B
July 2018	MSB 18-03-01-A	Revision to the Medical Assistance Rule concerning Special Connections Reimbursement, Section 8.745	Revise	45 CFR 96.131; 42 CFR 440.250 and 42 CFR 435.170	Updating the interChange system to allow for a specialty provider type that we can reimburse directly. We will remove the Office of Behavioral Health as the only provider whom we can	Health First Colorado members, providers.	A July 2018	B

					reimburse and allow direct provider reimbursement			
July 2018	MSB 18-04-04-A	Revision to the Medical Assistance Rule concerning CICP State Administered Audits, Section 8.902.D	Revise	25.5-3-101 through 25.5-3-111 C.R.S.	Create a State administered audit of our CICP providers	Health First Colorado members, providers.	A July 2018	B
July 2018	MSB 18-04-05-B	Revision to the Medical Assistance Rule concerning the Family Support Services Loan Fund-Rescind, Section 8.613.1	Repeal	House Bill 17-1078	The statute authorizing the Family Support (FS) Loan Fund, Section 25.5-10-401-403, C.R.S. was repealed pursuant to HB17-1078	Health First Colorado members, providers.	A July 2018	B
July 2018	MSB 18-05-15-A	Revision to the Medical Assistance Rule concerning Durable Medical Equipment Reimbursement, Section 8.590.7	Revise	42 CFR 440.70, 440.120	The proposed rule will increase the Durable Medical Equipment (DME) rate by 1.0% to account for General Assembly funding appropriation, pursuant to HB 18-1322	Health First Colorado members, providers.	A July 2018	B

August 2018	MSB 18-04-05-A	Revision to the Medical Assistance Rule concerning Children with Autism - Rescind, Section 8.519	Repeal	Social Security Act § 1902 / 42 U.S.C. §1396a; Social Security Act § 1915(c) / 42 U.S.C. § 1396n(c)	With the addition of Pediatric Behavioral Therapies to EPSDT the CWA waiver will be closed. The only benefit this waiver offered was behavioral therapy	Health First Colorado members, providers.	A August 2018	B
August 2018	MSB 18-05-25-B	Revision to the Medical Assistance Home and Community Based Services for Elderly Blind and Disabled Rule Concerning Alternative Care Facilities Section 8.495	Revise	25.5-6-313(1) C.R.S.	The intention of this rule is to ensure providers meet both State and Federal guidelines for critical incident reporting, care planning, and the HCBS Final Settings Rule	Health First Colorado members, providers.	A August 2018	B
August 2018	MSB 18-06-15-A	Revision to the Medical Assistance Rule concerning Adding Provider Types to FQHC Visit, Section 8.700	Revise	42 USC 1396a(bb)	The rule changes the definition of a payable encounter at Feder ally Qualified Health Centers. The amended rule adds the supervised mental health license	Health First Colorado members, providers.	A August 2018	B

					candidates to the provider types that can generate a billable encounter			
August 2018	MSB 18-07-23-B	Revision to the Medical Assistance Rule concerning Drug Payment Methodology for Outpatient Hospitals, Section 8.300.1 and 8.300.6	Revise	2 U.S.C. 1396a(a)(30)(A); 42 C.F.R. 447.321	The proposed rule update will allow for certain specialty drugs to be reimbursed at rates in greater alignment with hospital cost experience and maintain existing levels of access to care	Health First Colorado members, providers.	A August 2018	B
September 2018	MSB 18-01-25-A	Revision to the Medical Assistance Long-Term Services and Supports HCBS Benefit Rule Concerning Adult Day Services, Section 8.491	Revise	42 U.S.C. §1396n(c)	Correct grammatical and technical errors identified as a part of the 2016 Rule Efficiency Review process. Additionally, the proposed changes align the definitions of the CHCBS and CLLI waivers with the definitions in the Single Entry Point rules at 8.393	Health First Colorado members, providers.	A September 2018	B

September 2018	MSB 18-02-09-A	Revision to the Medical Assistance Rule concerning Adding Pharmacist as a Provider Type, Section 8.200.2	Revise	C.R.S. 25.5-5-202(1)(a)(l) and (3)	Allow the Department to address the inefficiency in its operations and reduce the amount of duplicative correspondence sent to providers.	Health First Colorado members, providers.	A September 2018	
September 2018	MSB 18-06-20-B	Revision to the Medical Assistance Rule concerning Immunization Benefits, Section 8.815	Revise	42 CFR 457.1210	Align with current business practice	Health First Colorado members, providers.	A September 2018	B
September 2018	MSB 18-03-07-A	Revision to the Medical Assistance Rule concerning Pharmacist Over the Counter Prescriptive Authority, Section 8.800	New rule	42 CFR 433.68	To comply with the new state law and to comply with the State Plan with the Centers for Medicare and Medicaid Services, the CHASE must establish rules on an emergency basis in order to assess fees on hospitals to ensure continuing health care coverage for these Medicaid and CHP+	Health First Colorado members, providers.	A September 2018	B

					members and to make required payments to hospitals. Senate Bill 17-267 repealed the Hospital Provider Fee program effective July 1, 2017.			
September 2018	MSB 18-06-12-A	Revisions to Medical Assistance Rule concerning Income Verification for Those Receiving Continuous Coverage, Sections 8.100.3.G and 8.100.4.G	Revise	42 U.S.C. §1396n(c)	Incorporate the Department created Age Appropriate Guidelines document into the rules concerning Long Term Care eligibility	Health First Colorado members, providers.	A September 2018	A
September 2018	MSB 18-05-15-B	Revisions to Child Health Plan Plus Rule concerning Income Verification for Those Receiving Continuous Coverage, Section 430	Revise	42 U.S.C. §1396n(c)	Incorporate the Department created Age Appropriate Guidelines document into the rules concerning Long Term Care eligibility	Health First Colorado members, providers.	A September 2018	B
October 2018	MSB 18-07-13-A	Revision to the Medical Assistance Rule	Revise	42 C.F.R. §435.912	The proposed rule change will amend 10 CCR 2505-10	Health First Colorado members, providers.	A October 2018	A

		Concerning Redetermination of Eligibility and Transferring Requirements, Section 8.100.3			8.100.3.C and 8.100.3.P to remove incorrect references.			
October 2018	MSB 18-07-23-B	Revision to the Medical Assistance Rule concerning Drug payment Methodology for Outpatient Hospitals, Section 8.300	Revise	2 U.S.C. 1396a(a)(30)(A); 42 C.F.R. 447.321	The proposed rule update will allow for certain specialty drugs to be reimbursed at rates in greater alignment with hospital cost experience and maintain existing levels of access to care	Health First Colorado members, providers.	A October 2018	B
October 2018	MSB 18-02-09-B	Revision to the Medical Assistance Rule Concerning Community Clinic and Community Clinic and Emergency Center, Section 8.320	Revise	42 USC 1396a(a)(32)(A) / 42 CFR 447.321	The rule will add a Community Clinic and Community Clinic and Emergency Center (CC/CCEC) provider type eligible to be reimbursed for services to Health First Colorado clients.	Health First Colorado members, providers.	A October 2018	B

August	10 CCR 2502-10 8.400	Long Term Care	Revise	C.R.S. 25.5- 6-101 – C.R.S. 25.5- 6-1501	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2502-10 8.401	Level of Care Screening Guidelines	Revise	C.R.S. 25.5- 6-104	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10 8.402	Admission Procedures for Long Term Care	Revise	C.R.S. 25.5- 6-105	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.403	Long Term Care - Services to the Developmen tally Disabled	Revise	C.R.S. 25.5- 6-409	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.404	Admission Criteria: Programs for the Developmen tally Disabled	Revise	C.R.S. 25.5- 6-404	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.405	Admission Procedures: Programs for the Developmen tally Disabled	Revise	C.R.S. 25.5- 6-404	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.406	Nursing Facility Care - Levels of Care	Revise	C.R.S. 25.5- 6-104	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10,	Special Provision Concerning	Revise	C.R.S. 25.5- 6-206	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B

	Section 8.407	Clients Eligible for Social Security Age-72 Benefits (Prouty)						
August	10 CCR 2505-10, Section 8.408	Levels of Care Defined - Skilled Nursing Care	Remain as is	C.R.S. 25.5-6-104	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.409	Levels of Care Defined - Intermediate Nursing Care	Remain as is	C.R.S. 25.5-6-104	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.415	Role of Counties and Nursing Facilities	Remain as is	C.R.S. 25.5-6-202	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.420	Requirements and Provisions for Participation by Colorado Nursing Facilities	Remain as is	C.R.S. 25.5-6-202	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.421	Responsibility of County Department Concerning Participation	Remain as is	C.R.S. 25.5-6-202	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10,	Visits to Recipients by Social	Remain as is	C.R.S. 25.5-11.5-105	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B

	Section 8.422	Services Personnel, Privacy for Conferences with Recipients						
August	10 CCR 2505-10, Section 8.423	Visits to Recipients by the Colorado Long Term Care Ombudsman and Designated Representatives	Remain as is	C.R.S. 25.5-11.5-105	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.424	Periodic Visits - Nursing Home Records to be Made Available	Revise	C.R.S. 25-25-107	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.430	Medicaid Certification of New Nursing Facilities or Additional Beds	Revise	C.R.S. 25.5-6-202	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.435	Enforcement Remedies	Revise	C.R.S. 25.5-6-205	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.440	Nursing Facility Benefits	Revise	C.R.S. 25.5-6-201	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B

August	10 CCR 2505-10, Section 8.441	Nursing Facility Cost Reporting	Revise	C.R.S. 25.5-6-202	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.442	Submission of Cost Reporting Information	Revise	C.R.S. 25.5-6-202	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.443	Nursing Facility Reimbursement	Revise	C.R.S. 25.5-6-202	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.470	Hospital Back Up Level of Care	Revise	C.R.S. 25.5-6-203	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.482	Resident Income and Possessions	Revise	C.R.S. 25.5-6-206	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.482.34	The "Status of Nursing Facility Care" Form, Ap-5615	Revise	C.R.S. 25.5-6-202	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.482.4	No Duplicate or Additional Payments	Revise	C.R.S. 25.5-6-202	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.482.42	Additional Payments	Revise	C.R.S. 25.5-6-202	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.482.5	Resident's Personal Needs Funds	Revise	C.R.S. 25.5-6-206	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10,	Patient's Personal Possessions	Revise	C.R.S. 25.5-6-206	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B

	Section 8.482.6							
August	10 CCR 2505-10, Section 8.482.7	Nursing Facility Responsibility for Establishing Personal Needs Account	Revise	C.R.S. 25.5-6-206	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.485	Home and Community Based Services for the Elderly, Blind and Disabled (HCBS-EBD) General Provisions	Revise	C.R.S. 25.5-6-302	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.485.90	State Prior Authorization of Services	Remain as is	C.R.S. 25.5-6-305	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.485.200	Limitations on Payment to Family	Remain as is	C.R.S. 25.5-6-310	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.485.300	Client Rights	Revise	C.R.S. 25.5-6-311	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.486	HCBS-EBD Case Management Functions	Remain as is	C.R.S. 25.5-6-311	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.487	HCBS-EBD Provider Agencies	Revise	C.R.S. 25.5-6-311	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B

August	10 CCR 2505-10, Section 8.488	Electronic Monitoring	Remain as is	C.R.S. 25.5-6-307	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.489	Personal Care	Revise	C.R.S. 25.5-6-307	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.490	Homemaker Services	Revise	C.R.S. 25.5-6-307	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.491	Adult Day Services	Revise	C.R.S. 25.5-6-307	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.492	Respite Care	Revise	C.R.S. 25.5-6-307	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.493	Home Modification	Remain as is	C.R.S. 25.5-6-307	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.494	Non-Medical Transportation	Remain as is	C.R.S. 25.5-6-307	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.495	Alternative Care Facilities [Eff.03/30/2009]	Revise	C.R.S. 25.5-6-307	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B
August	10 CCR 2505-10, Section 8.496	Home and Community Based Services for Persons Living with Aids (HCBS-PLWA)		C.R.S. 25.5-6-307	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B

		General Provisions						
August	10 CCR 2505-10, Section 8.497	Program for All-Inclusive Care for The Elderly (PACE)	Revise	C.R.S. 25.5-5-412	Regulatory Efficiency Review	Health First Colorado members, providers.	Pending	B

2019

Regulatory Agenda

January 1, 2019-December 31, 2019



Overview

The Colorado Department of Health Care Policy and Financing submits the following 2019 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1 executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department’s “Regulatory Efficiencies Reviews” during 2017 (which are denoted as such in the “purpose” column). The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department’s web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its “SMART Act” hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(III)(A).

The following constitutes Department of Health Care Policy and Financing’s Regulatory Agenda for 2018-2019 and is provided in accordance with Colo. Rev. Stat. §24-7-203(2)(a)(IV):

Schedule Anticipated Hearing or Adoption Date	Rule Number	Rule Title	New rule, revision, or repeal?	Statutory or other basis for adoption or change to rule	Purpose of Proposed Rule	Stakeholders <i>Consider including high-level outreach bullets</i>
			If only a part of a CCR is repealed, it should be classified as “revised”	Statutory authority		Categories of stakeholders, not individual stakeholders

July 2019	10 CCR 2505-10,	BH Capitation Program/MCO Rule - needs to be changed to a broader ACC rule Second Level Grievance Process		ACC Statute to administer the ACC	Update to reflect current ACC integration of Behavioral Health grievance: 8.209.5.H. If the member is dissatisfied with the disposition of a Grievance provided by the MCO, PHIP, or PAHP, the member may bring the unresolved Grievance to the Department. 1. The Department will acknowledge receipt of the Grievance and dispose of the issue. 2. The disposition offered by the Department will be final	Regional Accountable Entities (RAEs), Members, Advocates, Providers
Spring 2019	10 CCR 2505-10, Section 8.075	Client Over-Utilization Program	Revision	42 CFR 456.3 and 431.54(e)	Update parameters regarding placement into the program on a quarterly basis to reflect current program design and policy changes to the lock-in portion of the program	Regional Accountable Entities, Members, Advocates, Providers

<p>July 2019</p>	<p>10 CCR 2505-10, Section 8.205</p>	<p>Medicaid Managed Care Program</p>	<p>Revision</p>	<p>42 CFR Section 438 CRS 25.5 Article 5 Part 4</p>	<p>Update/rework rule to comply with federal requirements, revised state statute, and align with changes to the Accountable Care Collaborative program.</p> <p>Update to reflect current ACC integration of Behavioral Health grievance: 8.209.5.H. If the member is dissatisfied with the disposition of a Grievance provided by the MCO, PHIP, or PAHP, the member may bring the unresolved Grievance to the Department. 1. The Department will acknowledge receipt of the Grievance and dispose of the issue. 2. The disposition offered by the Department will be final</p>	<p>Regional Accountable Entities (RAEs), Members, Advocates, Providers</p>
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Early 2019	10 CCR 2505-10, Section	Transportation - Supplemental Payment for Public Ambulance Services	Revision	State Plan (pending approval)	Supplemental payment to Public EMS providers for costs associated with providing services above the FFS rates under a certified public expenditure methodology.	Public EMS providers - anticipated impact is positive
Early 2019	10 CCR 2505-10, Section	Reimbursement for Outstationing Administrative Costs	Revision	PACAP (pending approval)	Update language to correspond with updated PACAP language and new payment methodology	Denver Health Medical Center Medical Assistance Sites - anticipated impact is positive
Early 2019	10 CCR 2505-10, Section 8.700.8	Nursing Home interChange & Supplemental Payment Reimbursement Methodology	Revision	Provider Fee Advisory Board (PFAB), State Plan	Revises language for calculation of Cost Base Rate, interChange Rate, & Rate True-Up Supplemental Payment	Nursing Homes - anticipated impact is positive
Early 2019	10 CCR 2505-10, Section 8.3000	Colorado Healthcare Affordability & Sustainability Enterprise (CHASE) Fees & Payments	Revision	CHASE Board, State Plan	Revises language for FFY 18-19 CHASE Fee Model	Hospitals - Anticipated impact is positive
Early 2019	10 CCR 2505-10, Section 8.960	The Dental Health Care Program for Low-Income Seniors	Revision	DAC, State Plan	Any changes in the newly published 2019 American Dental Assoc. Procedure code book will need to be updated in Appendix A.	Grantees - Anticipated impact is positive.
March- May 2019	10 CCR 2505-10,	Children's Habilitation	Revision	HB 18-1328	Revise CHRP waiver rules to	Children/youth with complex behavioral support needs and their families will be

	Section 8.508	Residential Program (CHRP) waiver			incorporate revisions authorized by HB 18-1328 to remove child welfare requirement, add additional crisis stabilization services.	affect positively. Changes expand eligibility for CHRP waiver services, will no longer require parents to relinquish custody of child to receive needed services, and will add services designed to support the child/youth to remain in the family home.
March-May 2019	10 CCR 2505-10, Section 8.760	Targeted Case Management Services	Revision	HB 18-1328	Revise Targeted Case Management rules to include that Targeted Case Management is provided for participants enrolled in the CHRP waiver	Case management agencies- increase in caseload. Waiver participants/families- anticipating positive impact with the delivery of case management specialized for people with intellectual and developmental disabilities.
May-July 2019	10 CCR 2505-10, Section 8.500.5	Supported Employment Rule	Revision	SB18-145	Update Supported Employment Rules to include new training requirements for providers and to require Case Managers to collect new data around employment.	Individuals utilizing Supported Employment Services will have access to better qualified staff that supports them in Job Development and on the job supports. Supported Employment Providers, and Case managers.
May- July 2019	10 CCR 2505-10	State SLS program	New rule	State SLS is funds that are carved out of the SLS budget in the Long Bill, that historically was intended to be used to support individuals that where on the SLS waiting list. There	To ensure the State SLS allocation is properly used to support individuals either trying to become eligible for a waiver or to support individuals in a	This will support individuals who have not yet be determined eligible for either the SLS or DD waiver to get the supports and services they need while the eligibility process is being completed. It may also be determined that some of the funds can be used to support individuals that are in crisis to ensure they have those extra supports to remain in the least restrictive environment and as independent in the community. This will also

				are no regulation or statute dictating what these funds are used for.	crisis to remain in the less restrictive and most integrated setting possible	support CCBs and Case Managers with rules on what is an appropriate use of this program
End of 2019	10 CCR 2505-10, Section 8.516.30	Transitional Living Program (TLP)	Revision	42 USC § 1396n	Complete overhaul of TLP service to address existing access to care issues. This will be paired with a change in rate methodology.	People who have recently sustained a BI aren't currently able to access this service due to unclear regulation and low reimbursement leading to a lack of providers. This rule revision will improve the lives of people with recent BI by reducing hospital readmissions and other negative outcomes.
End of 2019	10 CCR 2505-10, Section 8.500.94	Home Accessibility Adaptations Rule Revision for SLS Waiver	Revision	42 USC § 1396n	Clarification of service regulations that were previously provided through informal guidance.	By eliminating multiple versions of past informal guidance that are followed differently across the state, people accessing this benefit, case managers, providers, and state staff will benefit from clearer regulations so that the benefit access and administration will be more predictable and consistent.
End of 2019	10 CCR 2505-10, Section 8.503.40.A.5	HCBS-CES Waiver Services	Revision	Title 1915 (c) federal "Social Security Act"	Clarification of service regulations that were previously provided through informal guidance.	By eliminating multiple versions of past informal guidance that are followed differently across the state, people accessing this benefit, case managers, providers, and state staff will benefit from clearer regulations so that the benefit access and administration will be more predictable and consistent.
Tentatively have rule effective late 2019 after appropriate stakeholder	10 CCR 2505-10, Section 8.503	Children's Extensive Supports Waiver Program (CES)	Revision	Title 1915 (c) federal "Social Security Act"	Revisions that will affect multiple sections of the rule to include removal of outdated language, expired citation	Revisions will positively affect stakeholders involved. The community will benefit from appropriate language updates that follow the Department's commitment to person centeredness. Operationalization of services technically available to members, but not yet used because of lack of rules to support implementation. Members, providers and

engagement on sections.					references, addition of youth day services (approved waiver service, but not outlined in rule), updating provider qualifications for services including but not limited to behavioral services and professional services	case management will benefit from updated and more clearly defined provider qualifications. More engaged provided community as they will be involved with provider qualifications discussion and can act as advisors to the Dept.
Tentatively have rule effective late 2019 after appropriate stakeholder engagement on sections.	10 CCR 2505-10, Section 8.517	Spinal Cord Injury Waiver Program (SCI)	Revision	42 U.S.C. Section 1915 (c)	Revisions that will affect multiple sections of the rule to include updated provider qualifications, updated language, and removal Medical Director	Revisions will positively affect stakeholders involved. The community will benefit from appropriate language updates, the removal of non-applicable sections of the rule (Medical Director) and updated provider quals. The updated provider quals should assist in allowing for more qualified providers to provide this service to waiver members, while giving members more options in providers.
Rule effective 6/30/2019	10 CCR 2505-10, Section 8.510	Consumer Directed Attendant Support Services (CDASS)	Revision	42 U.S.C. §1396n(c)	Revisions that will affect multiple sections of the rule to include streamlined roles and responsibilities of participants and/or their authorized representatives. Rule also clarifies service limitations and allowable health maintenance tasks	Stakeholders will benefit from clarity to roles and responsibilities within the rule. Implementing change to allowable service spending per month to reduce risk of prematurely depleting a service budget

<p>Rule effective 06/30/2019</p>	<p>10 CCR 2505-10, Section 8.552</p>	<p>In-Home Support Services</p>	<p>Revision</p>	<p>25.5-6-1203 through 25.5-6-1205, C.R.S.</p>	<p>Revisions that will include mandatory provider training per commitment to MSB on 03/09/2018. Revisions to add clarification to services authorized in IHSS, including removing link to personal care rule. May include EVV language if available</p>	<p>Stakeholders requested mandatory provider training and providers are supportive of this addition. Stakeholders will benefit from clarity in service / task definitions that are presently misinterpreted</p>
<p>March - May 2019</p>	<p>10 CCR 2505-10, Section</p>	<p>Wage Pass Through Rule</p>	<p>New rule</p>	<p>HB 18-1407</p>	<p>Add a rule governing the application of the 6.5% wage pass through as required by HB 18-1407. This statute requires the Department to operationalize and audit a wage pass through of 6.5% for direct support professionals delivering services through the home and community waiver serving persons with developmental disabilities (DD), supported living services (SLS), and children extensive supports waivers (CES).</p>	<p>Stakeholders will benefit from the increase of funding as a wage pass through to help stabilize the direct support workforce</p>

March-May 2019	10 CCR 2505-10, Section 8.470	Hospital Back Up Level of Care	Revision	42 CFR part 483, subpart B 25.5-6-201 through 203, C.R.S.	Rates is implementing a new rate methodology based upon the MDS. We have corresponding operational processes and policy changes to align with the regulatory changes	Stakeholders have been advised of the upcoming process changes due to work currently being conducted by Rates. If we decide to open up eligibility criteria, we expect considerable stakeholder outreach to ensure buy-in.
March-May 2019	10 CCR 2505-10, Section 8.443	ICF Oversight	New rule	42 CFR sections 456.380; 483.440 and 456.431-438	HCPF is currently working with multiple state agencies that either administer, operate, or survey the State's ICF programs without HCPF oversight. Work is currently ongoing in establishing points of oversight which will need to be reflected in rule, section 8.4.	Stakeholders include residents of ICFs, CCBs, CDHS, CDPHE, CMS, and a private operator.
January-February 2019	10 CCR 2505-10, Section 8.482	Post Eligibility Treatment of Income (PETI)	Revision	§1902(r)(1)(A) of the Social Security Act, 42 CFR § 435.832	Due to incorporation of Telligen as UR/UM for OCL, a number of operational processes have been assigned to the SURC. Some current provisions under this section need to be	Stakeholders include residents of SNFs and providers.

					updated to reflect this.	
June 1, 2019	10 CCR 2505-10, Section 8.500.7.F	Access to Services through DD waiver emergency enrollment criteria	Revision	HB 18-1407	Establish additional criteria for reserve capacity enrollments based on the age and capacity of a person's parent or caregiver	Individuals with intellectual and developmental disability who have an aging caregiver, lost a parent or caregiver, have a caregiver with a life threatening illness or have a caregiver who has placed a person's health and safety at risk will gain access to HCBS-DD waiver services as an exception to the waiting list protocol
Mid 2019	10 CCR 2505-10	Choice Entity for choice in Case Management Agency	New rule	HB 17-1343	Establish a third-party entity to assist individuals in choice of their Case Management Agency.	Individuals with intellectual and developmental disability who are currently receiving both case management services and provider services from the same agency. This will also include newly functionally and financially eligible individuals who are receiving HCBS services from the following waivers; DD, CES and SLS
Mid 2019	10 CCR 2505-10, Section 8.393	Functions of a Single Entry Point Agency	Revision	24-4-103.3(4) C.R.S.	Review and clean up language and citations within the current regulations. Also to ensure that all regulations have aligned definitions. Review current processes and align with person centered practices and choice.	This will affect CCBs/SEPs/CMAs. This will provide updates to all the listed regulations to ensure fluidity between the regulations. The definitions, citations and specific language will need to be reviewed and updated as appropriate.
Mid 2019	10 CCR 2505-10, Section 8.500	Home and Community Based Services for the Developmentally Disabled	Revision	24-4-103.3(4) C.R.S.	Review and clean up language and citations within the current regulations. Also to ensure that all	This will affect CCBs/SEPs/CMAs. This will provide updates to all the listed regulations to ensure fluidity between the regulations. The definitions, citations and specific language will need to be reviewed and updated as appropriate.

		(HCB-DD) Waiver			regulations have aligned definitions. Review current processes and align with person centered practices and choice.	
Mid 2019	10 CCR 2505-10, Section 8.600	Services for Individuals with Intellectual and Developmental Disabilities	Revision	24-4-103.3(4) C.R.S.	Review and clean up language and citations within the current regulations. Also to ensure that all regulations have aligned definitions. Review current processes and align with person centered practices and choice.	This will affect CCBs/SEPs/CMAs. This will provide updates to all the listed regulations to ensure fluidity between the regulations. The definitions, citations and specific language will need to be reviewed and updated as appropriate.
Mid 2019	10 CCR 2505-10, Section 8.761	Targeted Case Management Services for Persons with Developmental Disabilities	Revision	24-4-103.3(4) C.R.S.	Review and clean up language and citations within the current regulations. Also to ensure that all regulations have aligned definitions. Review current processes and align with person centered practices and choice.	This will affect CCBs/SEPs/CMAs. This will provide updates to all the listed regulations to ensure fluidity between the regulations. The definitions, citations and specific language will need to be reviewed and updated as appropriate.
April 2019	10 CCR 2505-10, Section 8.076	Program Integrity	Revision	25.5-4-301, C.R.S.	Revise rule language for clarity and to incorporate new and revised	Medicaid and CHP+ Providers

					provisions of 25.5-4-301, C.R.S.	
April 2019	10 CCR 2505-10, Section 8.050	Provider Appeals	Revision	24-4-105, C.R.S.	Revise rule language for clarity.	Medicaid and CHP+ Providers
February 2019	10 CCR 2505-5, 1.030	State Investigative Rules	Revision	C.R.S. 25.5-1-108; C.R.S. 25.5-1-115	Addition to Executive Director rules to give state investigators tools to investigate, such as subpoena power	Ineligible members
Mid 2019	10 CCR 2505-10, Section 8.485	Home and Community Based Services for the Elderly, Blind and Disabled (HCBS-EBD)	Revision	SB 18-093	Repeal of Obsolete provisions relating to the inactive Persons Living with AIDS waiver	Repeal of obsolete language
Early 2019	10 CCR 2505-10, Section 8.553	Transition Services	Revision	42 U.S.C. §1396n(c) and The Social Security Act, §1915(c). Olmstead v. L.C., 527 U.S. 581 (1999)	Revisions to the transition services rule	Medicaid recipients who are eligible for Home and Community Based Services, reside in a nursing home, Intermediate Care Facility for Individuals with Intellectual and Developmental Disabilities (ICF-IDD), or Regional Center, and are willing to participate and have expressed interest in moving to a home and community-based setting.
Early 2019	10 CCR 2505-5, 1.200	All-Payers Claims Database	Revision	Section 25.5-1-108, C.R.S.	Revisions to the All Payers Claims Database	HCPF providers and members
Mid 2019	10 CCR 2505-10, Section 8.079	Quality Improvement	Revision	24-4-103 C.R.S.	Make modifications to include "PCCM and PCCM Entities."	HCPF providers and members
March 2019	10 CCR 2505-10,	Verified Lawful Presence	Revision	42 CFR 435.956	The purpose of this rule change would to align the	This change will affect any medical assistance applicant and/or member that requires their lawful presence to be verified

	Section 8.100.3.G				steps taken to verify lawful presence and mirror the process established by Homeland Security	
December 2019	10 CCR 2505-10, Section 8.100.4.C	allowable deductions for MAGI programs	Revision	42 CFR 435.603	The purpose of this rule change is to align with federal tax changes for MAGI rules for allowable deductions.	This change will affect MAGI Medical assistance programs for individuals who have allowable deductions.
December 2019	10 CCR 2505-10, Section 8.100.4.I	4-month extension program who receive Alimony Income.	Revision	42 CFR 435.603	The purpose if this rule change is to align with federal tax changes for MAGI rules for those who receive Alimony.	This change will affect MAGI Medical Assistance programs for individuals who receive Alimony.
Early 2019	10 CCR 2505-10, Section 8.100.7.E.6.c	Consideration of Trusts in Determining Medical Assistance Eligibility	Revision	42 U.S.C 1396p(d)(4)(A)	Amend the subsection addressing pooled trusts to clarify how the Department treats additions	Pooled trust organizations. Recipients applying for or receiving long term care services and supports or other Medicaid programs imposing a resource requirement.
Mid 2019	10 CCR 2505-10, Section 8.063, 8.482.52.F	Medical Assistance Estate Recovery	Revision	42 U.S.C 1396p	Clarify when and under what circumstances, the Department will file a lien on a home. Clarify disposition of personal needs funds for estate recovery purposes.	Recipients applying for or receiving long term care services and supports or other Medicaid programs imposing a resource requirement.