

## **Appendix A**

### **CDASS Rules and Regulations**



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

### **8.510.1 DEFINITIONS**

Adaptive Equipment means a device(s) that is used to assist with completing activities of daily living.

Allocation means the funds determined by the case manager and made available by the Department to clients receiving Consumer Directed Attendant Support Services (CDASS) and administered by the Financial Management Services (FMS) authorized for attendant support services and administrative fees paid to the FMS.

Attendant means the individual who meets qualifications in 10 CCR 2505-10, § 8.510.8 who provides CDASS as determined by 10 CCR 2505-10, § 8.510.3 and is hired by the client or by a contracted FMS vendor.

Attendant Support Management Plan (ASMP) means the documented plan for clients to manage their care as determined by 10 CCR 2505-10, § 8.510.4 which is reviewed and approved by the Case Manager.

Authorized Representative (AR) means an individual designated by the client or the legal guardian, if appropriate, who has the judgment and ability to direct CDASS on a client's behalf and meets the qualifications as defined at 10 CCR 2505-10, § 8.510.6 and § 8.510.7.

Benefits Utilization System (BUS) means the web based data system maintained by the Department for recording case management activities associated with Long Term Services and Supports (LTSS).

Case Management Agency (CMA) means a Department approved agency within a designated service area where an applicant or client can obtain Long Term Services and Supports case management services.

Case Manager means an individual who meets the qualifications to perform case management activities by contract with the Department.

Consumer Directed Attendant Support Services (CDASS) means the service delivery option for services that assist an individual in accomplishing activities of daily living when included as a waiver benefit that may include health maintenance, personal care, and homemaker activities.

CDASS Training means the required training, including a final, comprehensive assessment, provided by the Department or its designee to a client/AR who is interested in CDASS.

Continued Stay Review (CSR) means a periodic face to face review of a client's condition and service needs by a Case Manager to determine a client's continued eligibility for Long Term Services and Supports in the client's residence.

Cost Containment means the cost of providing care in the community is less than or equal to the cost of providing care in an institutional setting based on the average aggregate amount. The cost of providing care in the community shall include the cost of providing Home and Community Based Services.

Department means the Department of Health Care Policy and Financing.

Eligibility means a client qualifies for Medicaid based on the applicable eligibility category and the client's individual financial circumstances, including, but not limited to, income and resources.

Financial Management Services (FMS) means an entity contracted with the Department to complete employment related functions for CDASS attendants and track and report on individual client allocations for CDASS.

Fiscal/Employer Agent (F/EA) is an FMS model where the FMS is an agent of the client as the employer. The program participant or representative is the common law employer of workers hired, trained and managed by the participant or representative. The F/EA pays workers and vendors on the participant's behalf. The F/EA withholds, calculates, deposits and files withheld Federal Income Tax and both employer and employee Social Security and Medicare Taxes.

Functional Eligibility means an applicant or client meets the criteria for Long Term Services and Supports as determined by the Department's prescribed instrument as defined in 10 CCR 2505-10, § 8.401.

Functional Needs Assessment means a component of the Assessment process which includes a comprehensive evaluation using the ULTC (Uniform Long Term Care) Instrument to determine if the client meets the appropriate Level of Care (LOC).

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 remain living at home.

Inappropriate Behavior means offensive behavior which includes: documented verbal, sexual and/or physical abuse. Verbal abuse may include threats, insults or offensive language over a period of time.

Licensed Medical Professional means a person who has completed a 2-year or longer program leading to an academic degree or certificate in a medically related profession. This is limited to those who possess the following medical licenses: physician, physician assistant and nurse governed by the Colorado Medical Practice Act and the Colorado Nurse Practice Act.

Long Term Services and Supports (LTSS) means Nursing Facilities, Intermediate Care Facilities for the Intellectually/Developmentally Disabled (ICF/IDD), Home and Community Based Services (HCBS), Long Term Home Health or the Program of All-inclusive Care for the Elderly (PACE), Swing Bed and Hospital Back Up Program (HBU).

Long Term Services and Supports Certification Period means the designated period of time in which a client is functionally eligible to receive Long Term Services and Supports not to exceed one year.

Prior Authorization Request (PAR) means the Department prescribed form that assures the provider that the service is medically necessary and a Colorado Medical Assistance Program benefit.

Notification means the routine methods in which the Department or its designee conveys information about CDASS. Methods include but are not limited to the CDASS web site, client statements, Case Manager contact, or FMS contact.

Reassessment means a review of the Assessment, to determine and document a change in the client's condition and/or client's service needs.

Stable Health means a medically predictable progression or variation of disability or illness.

Training and Operations Vendor means the organization contracted by the Department to provide training to CDASS Clients/authorized representatives, provide training to case managers on participant direction, and provide customer service related to participant direction.

### **8.510.2 ELIGIBILITY**

8.510.2.A. To be eligible for CDASS, an individual shall meet all of the following:

1. Choose the CDASS service delivery option
2. Meet medical assistance Financial Eligibility requirements
3. Meet Long Term Services and Supports Functional Eligibility requirements
4. Be eligible for an HCBS Waiver with the CDASS option
5. Demonstrate a current need for Attendant support
6. Document a pattern of stable health that necessitates a predictable pattern of Attendant support and appropriateness of CDASS services
7. Provide a statement from the primary care physician attesting to the client's ability to direct his or her care with sound judgment or a required AR with the ability to direct the care on the client's behalf
8. Complete all aspects of the ASMP and training and demonstrate the ability to direct care or have care directed by an AR

### **8.510.3 CDASS SERVICES**

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

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 applied only to the permanent living space of the client and multiple attendants may not be reimbursed for duplicating household tasks. Tasks may include the following activities or teaching the following activities:
  - a. Routine light 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. Including:
  - a. Eating/feeding which includes assistance with eating by mouth using common eating utensils such as forks, knives, and straws
  - b. Respiratory assistance with cleaning or changing oxygen equipment tubes, filling the distilled water reservoir, and moving the cannula or mask from the client's face
  - c. Skin care preventative in nature when skin is unbroken; including the application of non-medicated/non-prescription lotions and/or sprays and solutions, rubbing of reddened areas, and routine foot checks for people with diabetes
  - d. Bladder/Bowel Care:
    - i) Assisting client to and from the bathroom
    - ii) Assistance with bed pans, urinals, and commodes
    - iii) Changing of incontinence clothing or pads
    - iv) Emptying Foley or suprapubic catheter bags only if there is no disruption of the closed system
    - v) Emptying ostomy bags
  - e. Personal hygiene:
    - i) Bathing including washing, shampooing, and shaving
    - ii) Grooming
    - iii) Combing and styling of hair
    - iv) Trimming, cutting, and soaking of nails
    - v) Basic oral hygiene and denture care
  - f. Dressing assistance with ordinary clothing and the application of non-prescription support stockings and application of orthopedic devices such as splints and braces or artificial limbs
  - g. Transferring a client when the client has sufficient balance and strength to assist with and can direct the transfer
  - h. Assistance with mobility
  - i. Positioning when the client is able to verbally or non-verbally identify when the position needs to be changed including simple alignment in a bed, wheelchair or other furniture
  - j. Assistance with self-administered medications when the medications have been preselected by the client, a family member, a nurse or a pharmacist and are stored in containers other than the prescription bottles, such as medication minders and medication reminding:

- i) Medication minders must be clearly marked as to the day and time of dosage and must be 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
  - 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 necessary on 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.  
Companionship is not a benefit of CDASS
- 3. Health Maintenance Activities. 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 unable to physically carry out. Services may include:
  - a. Skin care provided when the skin is broken or a chronic skin condition is active and could potentially cause infection Skin care may include: wound care, dressing changes, application of prescription medicine, and foot care for people with diabetes when prescribed by a licensed medical professional
  - b. Nail care in the presence of medical conditions that may involve peripheral circulatory problems or loss of sensation
  - c. Mouth care performed when:
    - i) there is injury or disease of the face, mouth, head or neck
    - ii) in the presence of communicable disease
    - iii) the client is unconscious
    - iv) oral suctioning is required
  - d. Dressing including the application of anti-embolic or other prescription pressure stockings and orthopedic devices such as splints, braces, or artificial limbs if considerable manipulation is necessary
  - e. Feeding:
    - i) When oral suctioning is needed on a stand-by or other basis



- ii) When there is high risk of choking that could result in the need for emergency measures such as CPR or the Heimlich maneuver as demonstrated by a swallow study
  - iii) Syringe feeding
  - iv) Feeding using apparatus
- f. Exercise prescribed by a licensed medical professional including passive range of motion
- g. Transferring a client when he/she is unable to assist or the use of a lift such as a Hoyer is needed
- h. Bowel care provided to a client including digital stimulation, enemas, care of ostomies, and insertion of a suppository if the client is unable to assist
- i. Bladder care when it involves disruption of the closed system for a Foley or suprapubic catheter, such as changing from a leg bag to a night bag and care of external catheters
- j. Medical management required by a medical professional to monitor: blood pressures, pulses, respiratory assessment, blood sugars, oxygen saturations, pain management, intravenous, or intramuscular injections
- k. Respiratory care:
  - i) Postural drainage
  - ii) Cupping
  - iii) Adjusting oxygen flow within established parameters
  - iv) Suctioning of mouth and nose
  - v) Nebulizers
  - vi) Ventilator and tracheostomy care
  - vii) Prescribed respiratory equipment

#### **8.510.4 ATTENDANT SUPPORT MANAGEMENT PLAN**

8.510.4.A The client/AR shall develop a written ASMP 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 by the FMS following initial training and shall be modified when there is a change in the client's needs. The plan shall describe the individual's:

1. Current health status
2. Needs and requirements for CDASS
3. Plans for securing CDASS
4. Plans for handling emergencies

5. Assurances and plans regarding direction of CDASS Services, as described at 10 CCR 2505 -10, § 8.510.3 and § 8.510.6 if applicable
6. Plans for management of the budget within the client's Individual Allocation
7. Designation of an Authorized Representative
8. Designation of regular and back-up employees approved for hire

8.510.4.B. If ASMP is disapproved by the Case Manager, the client has the right to review that disapproval. The client 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.

### **8.510.5 TRAINING ACTIVITIES**

8.510.5.A. When necessary to obtain 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.

8.510.5.B The verification requirement of 10 CCR 2505-10, §8.510.5.A above will be on a form provided by the FMS and returned to the FMS with the client/AR completed employment packet.

### **8.510.6 CLIENT/AR RESPONSIBILITIES**

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

1. Attend training provided by the Training and Operations Vendor; clients who cannot attend training shall designate an AR
2. Develop an ASMP
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.
4. Determine the required credentials for Attendants
5. Complete previous employment reference checks on Attendants
6. Follow all relevant laws and regulations applicable to client's supervision of Attendants
7. Explain the role of the FMS to the Attendant
8. Budget for Attendant care within the established monthly and CDASS Certification Period Allocation

9. 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 services
10. Review and submit approved Attendant timesheets to the FMS by the established timelines for Attendant reimbursement
11. Authorize the FMS to make any changes in the Attendant wages
12. Understand that misrepresentation 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
13. Completing and managing all paperwork and maintaining employment records
14. Select an FMS vendor upon enrollment into CDASS.

8.510.6.B. Client/AR responsibilities for CDASS in the F/EA FMS model:

1. Recruit, hire, fire and manage Attendants
2. Train Attendants to meet client needs
3. Terminate Attendants who are not meeting client needs
4. Operate as the sole employer of the attendant
5. Complete necessary employment related functions through the FMS agent, including hiring and termination of Attendants and employer related paperwork necessary to obtain an employer tax ID

8.510.6.C Client/AR responsibilities for Verification:

1. Sign and return a responsibilities acknowledgement form for activities listed in 10 CCR 2505-10, §8.510.6 to the Case Manager.

8.510.6.D. Clients receiving CDASS services have the following Rights:

1. Right to receive instruction on managing CDASS.
2. Right to receive program materials in accessible format.
3. Right to receive notification of changes to CDASS.
4. Right to participate in Department sponsored opportunities for input.
5. CDASS clients have the right to transition back to Personal Care, Homemaker, and Home Health Aide and Nursing services provided by an agency at any time. A client who wishes to transition back to an agency-provided services shall contact the Case Manager. The Case Manager shall coordinate arrangements for the services.
6. A client/AR may request a re-assessment, as described at 10 CCR 2505-10, § 8.390.1 (N), if his or her level of service needs have changed.

7. A client/AR may revise the ASMP at any time with CM approval. CM shall notify FMS of changes.

### **8.510.7 AUTHORIZED REPRESENTATIVES**

8.510.7.A. CDASS clients who require an AR may not serve as an AR for another CDASS client.

8.510.7.B. Authorized Representatives shall not receive reimbursement for AR services and shall not be reimbursed for CDASS services as an Attendant for the client they represent.

### **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. Authorized Representatives shall not be employed as an Attendant for the client.

8.510.8.D. Attendants must be able to perform the tasks on the Service Plan they are being reimbursed for and the client must have adequate Attendants to assure compliance with all tasks on the service plan.

8.510.8.E. Attendants shall not represent 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.F. Attendants shall not have had his or her license as a nurse or certification as a nurse aide suspended or revoked or his application for such license or certification denied.

8.510.8.G. 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 shall make all payments from the client's Individual Allocation under the direction of the client/AR within the limits established by the Department.

8.510.8.H. Attendants may not attend training provided by the Training and Operations Vendor during instruction.

### **8.510.85 FINANCIAL MANAGEMENT SERVICES**

8.510.85.A The FMS vendor shall be responsible for the following tasks:

1. Collect and process timesheets submitted by attendants.
2. Conduct payroll functions including withholding employment related taxes such as worker's compensation insurance, unemployment compensation insurance, withholding of all federal and state taxes, compliance with federal and state laws regarding overtime pay and minimum wage requirements.
3. Distribute paychecks in accordance with timelines established by the Colorado Department of Labor and Employment.
4. Submit authorized claims for CDASS provided to eligible client.
5. Verify Attendants' citizenship status and maintain copies of the I-9 documents.
6. Track and report utilization of client allocations.
7. Comply with Department regulations at 10 CCR 2505-10 and the contract with the Department.
8. Maintain system prompts in the FMS vendor portal requiring case managers to verify all requirements and forms have been completed prior to completing a prior authorization request for services.
9. Comply with all requirements set forth by the Affordable Care Act

8.510.85.B In addition to the requirements set forth at 10 CCR 2505-10, §8.510.9.A, the FMS vendor operating under the F/EA model shall be responsible for obtaining designation as a Fiscal/Employer Agent per Section 3504 of the IRS 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.

### **8.510.86 SELECTION OF FMS VENDORS**

8.510.86.A The client/AR shall select an FMS vendor at the time of enrollment into CDASS from the vendors contracted with the Department.

8.510.86.B The client/AR shall remain with the selected FMS vendor until the selection of FMS is changed during the designated open enrollment period.

### **8.510.9 START OF SERVICES**

8.510.9.A. The start date shall not occur until all of the requirements defined at 10 C.C.R. 2505-10, § 8.510.2, 8.510.4, 8.510.5, 8.510.6 and 8.510.8 have been met.

8.510.9.B. The Case Manager shall approve the ASMP, establish a certification period, submit a PAR and receive a PAR approval before a client is given the start date and can begin CDASS.

8.510.9.C. The FMS 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. Employment relationships with two Attendants must be maintained while participating in CDASS.

8.510.9.D. The FMS will not reimburse Attendants for services provided prior to the CDASS start date. Attendants are not approved until the FMS provides the client/AR with an employee number and confirms employment status.

8.510.9.E. If a client is transitioning from a Hospital, Nursing Facility, or HCBS agency services the CM shall coordinate with the Discharge Coordinator to ensure the discharge date and CDASS start date correspond.

### **8.510.10 SERVICE SUBSTITUTION**

8.510.10.A. Once a start date has been established for CDASS, the Case Manager shall establish an end date and disenroll the individual from any other Medicaid-funded Attendant support including home health effective as of the start date of CDASS.

8.510.10.B. Case Managers shall not authorize, on the PAR, concurrent payments for CDASS and other waiver service delivery options for Personal Care services, Homemaker services, and Health Maintenance Activities for the same individual.

8.510.10.C. Clients may receive up to sixty days of Medicaid acute home health agency based services directly following acute episodes as defined by 10 CCR 2505-10, § 8.523.11.K.1. Client allocations shall not be changed for

sixty days in response to an acute episode unless acute home health services are unavailable. If acute home health is unavailable, a client's allocation may be temporarily adjusted to meet a client's need.

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

### **8.510.11 ENDING CONSUMER DIRECTED ATTENDANT SUPPORT SERVICES**

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

8.510.11.B. Prior to a client being terminated for reasons other than those listed in section 10 CCR 2505-10, §8.510.13, the following steps may 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
3. Discontinuation according to the following:
  - a) The notice shall provide the client/AR with the reasons for termination and with information about the client's rights to fair hearing and appeal procedures, in accordance with 10 CCR 2505-10, §§ 8.057. Once notice has been given for termination, the client/AR shall contact the Case Manager for assistance in obtaining other home care services. The Case Manager has thirty (30) calendar days prior to the date of termination to discontinue CDASS services and begin alternate care services. Exceptions may be made to the thirty (30) day advance notice requirement when the Department has documented that there is danger to the client or to the Attendant(s). The Case Manager shall notify the FMS of the date on which the client is being terminated from CDASS.

### **8.510.12 TERMINATION**

8.510.12.A. Clients may be terminated for the following reasons:

1. The client/AR fails to comply with CDASS program requirements
2. The client/AR demonstrates an inability to manage Attendant support

3. A client/AR no longer meets program criteria due to deterioration in physical or cognitive health
4. The client/AR spends the monthly Allocation in a manner indicating premature depletion of funds
5. The client's medical condition causes an unsafe situation for the client, as determined by the treating physician
6. The client provides false information or false records as determined by the Department

8.510.12.B Clients who are terminated according to 10 CCR 2505-10, § 8.510.12 may be re-enrolled for future CDASS service delivery

### **8.510.13 INVOLUNTARY TERMINATION**

8.510.13.A. Clients may be involuntarily terminated for the following reasons:

1. A client/AR no longer meets program criteria due to deterioration in physical or cognitive health AND 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 Department has determined that adequate attempts to assist the client/AR to resolve the overspending have failed
3. The client/AR exhibits Inappropriate Behavior toward Attendants, Case Managers, the Training and Operations Vendor or the FMS, and the Department has determined that the Training and Operations Vendor has made adequate attempts to assist the client/AR to resolve the Inappropriate Behavior, and those attempts have failed
4. Documented misuse of the monthly Allocation by client/AR has occurred
5. Intentional submission of fraudulent CDASS documents to Case Managers, the Training and Operations Vendor, the Department or the FMS
6. Instances of convicted fraud and/or abuse

8.510.13.B. Termination may be initiated immediately for clients being involuntarily terminated

8.510.13.C. Clients who are involuntarily terminated according to 10 CCR 2505-10, § 8.510.13 may not be re-enrolled in CDASS as a service delivery option.

### **8.510.14 CASE MANAGEMENT FUNCTIONS**



8.510.14.A. The Case Manager shall review and approve the ASMP completed by the client/AR. The Case Manager shall notify the client/AR of the approval and establish a certification period and Allocation.

8.510.14.B. If the Case Manager determines that the ASMP is inadequate to meet the client's CDASS needs, the Case Manager shall assist the client/AR with further development of the ASMP.

8.510.14.C. The Case Manager shall calculate the Individual 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 prescribed method. The needs determined for the Allocation should reflect the needs in the ULTC assessment tool and the service plan. The Case Manager shall use the Departments 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 prescribed method at the initial enrollment and at CSR, and should always match the client's need for services.

8.510.14.D. Prior to training or when an allocation changes, the Case Manager shall provide written notification of the Individual Allocation to each client.

8.510.14.E. A client/AR who believes he or she needs a change in Attendant support, may request the Case Manager to perform a reassessment. If the reassessment indicates that a change in Attendant support is justified, the client/AR shall amend ASMP and the Case Manager shall complete a PAR revision indicating the increase and submit it to the Department's fiscal agent. The Case Manager shall provide notice of the change to client/AR and make changes in the BUS.

8.510.14.F. In approving an increase in the individual Allocation, the Case Manager shall consider all of the following:

1. Any deterioration in the client's functioning or change in the natural support condition
2. The appropriateness of Attendant wages as determined by Department's established rate for equivalent services
3. The appropriate use and application of funds to CDASS services

- 8.510.14.G. In reducing an Individual Allocation, the Case Manager shall consider:
1. Improvement of functional condition or changes in the available natural supports
  2. Inaccuracies or misrepresentation in previously reported condition or need for service
  3. The appropriate use and application of funds to CDASS services

8.510.14.H. Case Managers shall notify the state fiscal agent to 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 10 CCR 2505-10, §8.520 et seq. as of the client's CDASS start date.

- 8.510.14.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 care providers and the quality of services received. Case Managers may refer clients to the FMS for assistance with payroll and budgeting and to the Training and Operations Vendor for training needs and supports
  2. Contact the client quarterly, after the first three months to assess their implementation of service plans, CDASS management issues, and quality of care, CDASS 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 reports to monitor client 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 clients

8.510.14.J. Reassessment: For clients receiving CDASS, the Case Manager shall conduct an interview with each client/AR every six months and at least every 12 months, the Interview shall be conducted face to face. The interview shall include review of the ASMP and documentation from the physician stating the client/AR's ability to direct care.

### **8.510.15 ATTENDANT REIMBURSEMENT**

8.510.15.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 shall make all payments from the client's Individual 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 on the ASMP.

8.510.15.B. Once the client's yearly Allocation is used, further payment will not be made by the FMS, 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.

8.510.15.C. Allocations shall not exceed the monthly cost containment cap. The Department may approve an over cost containment Allocation if it meets prescribed Department criteria.

#### **8.510.16 REIMBURSEMENT TO FAMILY MEMBERS**

8.510.16.A. Family members/legal guardians may be employed by the client or FMS to provide CDASS, subject to the conditions below. For the purposes of this section, family shall be defined as all persons related to the client by virtue of blood, marriage, adoption, or common law.

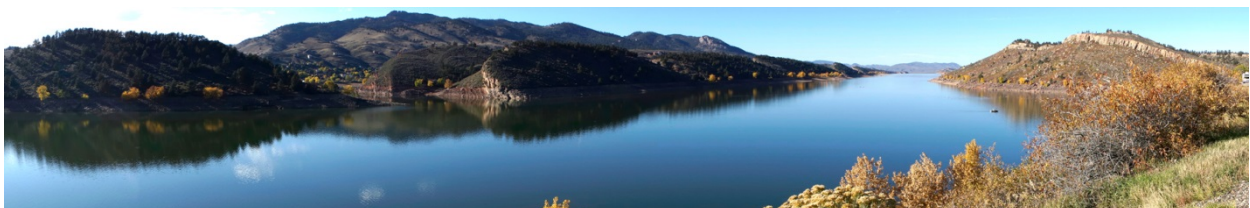
8.510.16.B. The family member or legal guardian shall be employed by the client or FMS and be supervised by the client/AR if providing CDASS.

8.510.16.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 12:00am on Sunday to 11:59pm on Saturday.
2. Family member wages shall be commensurate with the level of skill required for the task and should not deviate greatly from that of a non-family member Attendant unless there is evidence of 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 are necessary to assure the health and welfare of

the client and avoid institutionalization. Extraordinary care shall be documented on the service plan.

8.510.16.D. A client/AR who choose a family member as a care provider, shall document the choice on the Attendant Support Services management plan.



# **COLORADO DEPARTMENT OF HEALTH CARE POLICY AND FINANCING CONSUMER DIRECTED ATTENDANT SUPPORT SERVICES (CDASS) PROTOCOL**

## **CDASS Service Utilization Review & Allocation Management Protocol for Case Management Agencies**

Effective 10.1.2015

### **I. PURPOSE AND AUTHORITY**

#### **APURPOSE**

The purpose of this protocol is to establish policy and procedures for Case Management Agencies (CMA) in the utilization review of services rendered through the Consumer Directed Attendant Support Services (CDASS) service delivery option to ensure appropriate, timely and effective management of CDASS client service and allocation utilization.

#### **B. AUTHORITY**

Consumer Directed Attendant Support Services, 10 CCR 2505-10 8.510.

### **II. DEFINITIONS**

A. Allocation means the funds determined by the case manager and made available by the Department to clients receiving Consumer Directed Attendant Support Services (CDASS) and administered by the Fiscal Management Services (FMS) authorized for attendant support services and administrative fees paid to the FMS.

B. Attendant Support Management Plan (ASPM) means the documented plan for clients to manage their care as determined by §8.510.4 which is reviewed and approved by the case manager.

C. Authorized Representative (AR) means an individual designated by the client or by the legal guardian, if appropriate, who has judgment and ability to direct CDASS on the client's behalf and meets the qualifications as defined at §8.510.6 and §8.510.7.

D. Benefits Utilization System (BUS) means the web based data system maintained by the Department for recording case management activities associated with Long Term Care (LTC) services.

E. Case Management Agency (CMA) means a Department approved agency within a designated service area where an applicant or client can obtain Long Term Care case management services.

F. Case Manager means an individual who meets the qualifications to perform case management activities by contract with the Department.

G. Consumer Directed Attendant Support Services (CDASS) means the delivery option for services that assist an individual in accomplishing activities of daily living when included as a waiver benefit that may include health maintenance, personal care and homemaker services.

H. Continued Stay Review (CSR) means a periodic face to face review of a client's condition and service needs by a case manager to determine a client's continued eligibility for LTC services in the client's residence.

I. Department means the Colorado Department of Health Care Policy and Financing

J. Financial Management Services organization (FMS) means an entity contracted with the Department and chosen by the client/authorized representative to complete employment related functions for CDASS attendants and track and report on individual client allocations for CDASS.

K. Long Term Care Certification Period means the designated period of time in which a client is functionally eligible to receive LTC services not to exceed one year.

L. Reassessment means a review of the Assessment, to determine and document a change in the client's condition or client's service needs.

M. Training and Operations Vendor means the organization contracted by the Department to provide training to CDASS clients/authorized representatives, provide training to case managers on participant direction, and provide customer service related to participant direction.

### III. POLICY OVERVIEW

The purpose of this policy is to provide guidance to case managers on how to conduct utilization and allocation reviews of services provided through the CDASS service delivery option. This policy overview does not provide guidance for every situation, but rather provides standards for use by case managers.

Allocation management is a key element of the CDASS service delivery model, allowing for increased client choice and control. Flexibility in how CDASS services are utilized enables clients to manage the services they need to live independently and to more fully participate in their communities. Covered CDASS services as defined in §8.510.3 are Health Maintenance Activities, Personal Care and Homemaker services. The allocation shall only be used to purchase covered CDASS services.

Upon enrollment and at the time of the Continued Stay Review (CSR) the case manager assesses the client's needs and identifies services to address those needs. If the client experiences a change in condition the case manager may determine (as set forth in §8.510.14.E) during the service plan year that a reassessment is necessary. If the change in condition is a result of an acute episode, as defined in 10 CCR 2505-10 §8.523.11.K.1, the case manager shall follow the rules as set forth in §8.510.10.C. If a reassessment is completed and indicates that a change in attendant support is necessary the case manager shall follow Department guidelines to adjust the service plan.

Each month, the Fiscal Management Services (FMS) organization shall notify each CMA when the Client Monthly Allocation Statement is available. The Client Monthly Allocation Statement is a report that details all service utilization during the month. This statement is produced by the FMS organization and includes all payments made to attendants during the month. The statement summarizes expenditures for the month and the remaining yearly allocation amount. The case manager shall review the Client Monthly Allocation Statement for appropriate utilization of services within the allocated amount.

If the Client Monthly Allocation Statement indicates that expenditures do not exceed the client's average monthly allocation determined by dividing the total allocation by the number of months in the CDASS period, by more than 10%, or does exceed it by 10%, but the client has the reserves to cover the

expenditure, no formal action is required. Reserves are those funds that remain unspent when a client spends less than the average monthly allocation from the start date of the certification period to month of over expenditure. Additionally, over utilization that is planned and documented in the service plan, Attendant Support Management Plan or BUS log notes also requires no further action.

If however, review of the Client Monthly Allocation Statement shows expenditures which exceed 10% of the average monthly allocation with no reserves, formal action steps should be taken in the form of the following protocol.

#### IV. PROTOCOL

A. If the Client Monthly Allocation Statement indicates the expenditures exceed the client's average monthly allocation by more than 10%, the case manager shall:

1. Review the client's approved Attendant Support Management Plan (ASMP) to determine if the fluctuation in expenditures was authorized and part of the plan or if there are reserves to cover the over expenditure. In these instances the case manager shall document the expenditure review in the Benefits Utilization System (BUS) log notes and no further action is required.
2. If the first over expenditure of more than 10% of the average monthly allocation is not prior authorized in the ASMP, Service Plan (SP) or Benefits Utilization System (BUS) log notes and there are no reserves to cover the utilization, the case manager shall contact the client or Authorized Representative (AR) within five business days of receipt of the Client Monthly Allocation Statement to:
  - a. Determine if the client experienced a change in condition resulting in the need for additional services.
  - b. Discuss with the client or AR the plan to address the over expenditure. Offer the client the option of additional training through the Department contracted training and operations vendor if the client reports difficulty with managing the allocation. The case



manager shall document in the BUS log notes that training was offered, the client's response, and any plans developed.

3. If the second over expenditure of more than 10% of the average monthly allocation is not prior approved in the ASMP, SP or BUS log notes and there are no reserves to cover the expenditure, the case manager shall contact the client or AR within five business days of receipt of the Client Monthly Allocation Statement to:

a. Determine if the client experienced a change in condition resulting in the need for additional services.

b. Discuss the over expenditure and develop a plan to reduce expenditures for one to two months to support the client to stay within their annual allocation. If the two month timeline creates a health or safety concern the case manager may extend the time needed bring expenditures within the annual allocation as appropriate. The case manager shall document the plan in a letter sent to the client or AR within five business days of the discussion.

c. Offer the client the option of additional training through the Department contracted training and operations vendor if the client reports difficulty with managing their allocation. The case manager shall document in the BUS log notes that training was offered, the client's response, and any plans developed.

4. If the third over expenditure of more than 10% of the average monthly allocation is not prior-authorized in the ASMP, SP or BUS log notes and there are no reserves to cover the expenditure, the case manager shall contact the client or AR within five business days of receipt of the Client Monthly Allocation Statement to:

a. Determine if the client experienced a change in condition resulting in the need for additional services.

b. Inform the client or AR that a mandatory change in AR or a use of an AR will be required. The AR shall be identified and scheduled for training with the Department contracted training and operations vendor within 15 calendar days. The AR training shall be completed within 60 calendar days.

c. Discuss the over expenditure and develop a plan to reduce expenditures for one to two months to support the client to stay within their annual allocation. If the two month timeline creates a health or safety concern the case manager may extend the time needed bring expenditures within the annual allocation as appropriate. The case manager shall document the repayment plan in a letter sent to the client or AR within five business days of the discussion.

d. Require allocation management training with the Department contracted training and operations vendor for the newly assigned AR and optional training for the client.

e. The case manager shall document all activities in the BUS log notes.

5. If the fourth over expenditure of more than 10% of the average monthly allocation is not prior-authorized in the ASMP, SP or BUS log notes and there are no reserves to cover the expenditure, the case manager shall contact the client or AR within five business days of receipt of the Client Monthly Allocation Statement to:

a. Inform the client and AR that the client will be terminated from the CDASS service delivery option in accordance with §8.510.12 within 30 calendar days.

b. The case manager will work collaboratively with the client to secure agency based waiver services.

c. If the case manager determines that the client cannot be safely served given the type or amount of services available, the case manager shall comply with all provisions of 10 CCR 2505-10 §8.393.25.A.2 The case manager shall provide the client with a Notice of Action, in accordance with §8.510.13.A.2

d. The case manager shall notify the FMS organization of the date on which the client is being terminated from CDASS.

e. The case manager shall document all activities in the BUS log notes.

# **COLORADO DEPARTMENT OF HEALTH CARE POLICY AND FINANCING CONSUMER DIRECTED ATTENDANT SUPPORT SERVICES (CDASS) PROTOCOL**

## **CDASS Two Attendant Requirement Protocol for FMS Vendors & Case Management Agencies**

Effective 1.1.2016

### **I. PURPOSE AND AUTHORITY**

#### **A. PURPOSE**

The purpose of this protocol is to establish policy and procedures for Financial Management Service (FMS) vendors and Case Management Agencies (CMA) in meeting the requirement for a CDASS client to have two attendants employed with the client selected FMS vendor. Because CDASS clients are responsible for managing their homemaker, health maintenance and personal care services, it is imperative that clients have at least two employees. Two employees provide backup services in the event that the primary attendant is unavailable.

#### **B. AUTHORITY**

Consumer Directed Attendant Support Services, 10 CCR 2505-10 8.510.

### **II. DEFINITIONS**

A. Attendant means the individual who meets qualifications in § 8.510.8 who provides CDASS as determined by § 8.510.3 and is hired by the client or client authorized representative.

B. Authorized Representative (AR) means an individual designated by the client or the legal guardian, if appropriate, who has the judgment and ability to direct CDASS on a client's behalf and meets the qualifications as defined at §8.510.6 and §8.510.7.

C. Case Management Agency (CMA) means a Department approved agency within a designated service area where an applicant or client can obtain Long Term Services and Supports case management services.

D. Case Manager means an individual who meets the qualifications to perform case management activities by contract with the Department.

E. Consumer Directed Attendant Support Services (CDASS) means the delivery option for services that assist an individual in accomplishing activities of daily living when included as a waiver benefit that may include health maintenance, personal care, and homemaker activities.

F. Department means the Colorado Department of Health Care Policy and Financing

G. Financial Management Services (FMS) means an entity contracted with the Department and chosen by the client/AR to complete employment related functions for CDASS attendants and track and report on individual client allocations for CDASS.

H. Training and Operations Vendor means the organization contracted by the Department to provide training to CDASS clients/authorized representatives, provide training to case managers on participant direction, and provide customer service related to participant direction.

### III. POLICY OVERVIEW

The purpose of this protocol is to provide guidance to FMS vendors and case management agencies on how to monitor and report CDASS client employment contracts in the CDASS service delivery option. Attendant management is a key element of the CDASS service delivery model as it gives clients the choice and control to select and manage their CDASS attendants. Clients or their CDASS authorized representative are responsible for hiring, training, scheduling and managing attendants. Assuring back up coverage is an essential part of management of attendant services in any model. CDASS clients take responsibility for arranging their own backup care and therefore must always have a backup attendant available. Prior to the case manager and the FMS vendor determining a start date for CDASS, the client or authorized representative is required to establish the employment of two attendants through the client's selected FMS vendor. Maintaining employment of a minimum of two CDASS attendants is essential for the health and welfare of CDASS participants to ensure they are able to access attendant services timely and have their personal care, homemaker, and health maintenance service needs met. **While the client or authorized representative must have established employment with two CDASS attendants, it is the determination of the client or authorized representative whether to utilize one or more attendants to perform services during any pay period.**

**This policy overview does not provide guidance for every situation, but rather provides standards for use by FMS vendors and case management agencies.**

#### **IV. PROTOCOL**

A. Each FMS vendor is responsible for running a monthly report to identify any clients who do not have an employment relationship with at least two CDASS attendants. When the FMS vendor identifies a client who does not have two CDASS attendants, the client's FMS vendor shall:

1. Contact the client or client's authorized representative to inform them that the two attendant employment requirement is not being met.

- a. This contact will be initiated by the client's FMS vendor within five business days of the identification of the client not meeting the requirement. The FMS vendor will mail or email (based on client communication preferences) the client or the client's authorized representative notification regarding noncompliance with the two attendant protocol. The notification will include the CDASS Two Attendant Requirement Protocol for FMS Vendors & Case Management Agencies and FMS employment applications for completion. Client will also be advised of the opportunity for voluntary training through the Department's contracted training and operations vendor regarding locating, interviewing and hiring new attendants. Upon request, the client's FMS vendor will provide the client or client authorized representative with a list of available attendants that are seeking employment.

- b. The client's FMS vendor will notify the client's case manager regarding the two attendant protocol violation.

2. The client, or client authorized representative is required to submit a completed employee application to hire at least one additional attendant in order to be in compliance with the two attendant requirement.

- a. The completed employee application must be submitted to the client's FMS vendor within 30 calendar days of FMS notification.

- b. The client's FMS vendor has five business days to process the employee application and inform the client, or client authorized

representative of the employment eligibility determination. The FMS vendor must identify all errors in the employment application within the first three business days and report any errors to the client or AR.

c. The client, or client authorized representative will be required to submit additional employment applications within 30 calendar days of notification of selected employee being ineligible for hire.

d. The FMS vendor will notify the client's case manager upon receipt of the employment application and also upon determination of employment eligibility.

e. If a client submits incomplete applications and fails to correct them or continuously submits applications for ineligible employees resulting in no additional hires over a three month period, the client or AR will be required to attend mandatory retraining with the Department's contracted training and operations vendor.

3. If the client, or client authorized representative does not submit an employee application within the first 30 calendar days following FMS identification and notification of the client not meeting the two attendant requirement:

a. The FMS vendor will notify the client's case manager within five business days of the requirement not being met.

b. Within five business days after notification from the client's FMS vendor, the case manager will refer the client or client authorized representative to the Department's contracted training and operations vendor for mandatory retraining. The case manager shall inform the client, or client authorized representative if applicable, that retraining must be completed within 45 days from the date the case manager contacts, and submits the retraining referral to the training and operations vendor. The case manager will send written notification to the client, or client authorized representative informing them of the mandatory training and the time frame for training to be completed.

c. The client, or client authorized representative will no longer be required to complete training if an eligible employee is hired before the established 45-day timeframe.

- d. If the client or AR notifies the FMS with good cause for not complying and has made reasonable efforts to secure a second attendant the FMS will contact the Department to request an extension. The maximum extension is an additional 20 days.
4. If the client, or client authorized representative does not complete the required training through the training and operations vendor by the established 45-day timeframe and does not have two attendants approved for employment through the FMS vendor:
    - a. The training and operations vendor will notify the client's case manager within five business days of the timeframe for retraining not being met.
    - b. The case manager will notify the client within five business days of notification from the training and operations vendor that the client is required to designate an authorized representative; or a new authorized representative will need to be designated if one is being utilized. The case manager will provide the client with written notification of the requirement and timeframe to designate an authorized representative or a new authorized representative. The authorized representative shall be identified and scheduled for training with the Department's contracted training and operations vendor within 15 calendar days. The authorized representative's training and paperwork with the CDASS training and operations vendor and the client selected FMS vendor shall be completed within 60 calendar days.
    - c. The client authorized representative will be required to submit a complete employment application within 30 calendar days of completing the required CDASS training and paperwork.
    - d. The client's FMS vendor has five business days to process the employee application and inform the client, or client authorized representative of the employment eligibility determination. The FMS vendor must identify all errors in the employment application within the first three business days. The authorized representative will be required to submit at least one additional employment applications within 30 calendar days of notification of the selected employee being ineligible for hire.

5. If the client does not designate an authorized representative or a new authorized representative, or the client authorized representative does not complete all required CDASS training and paperwork within 60 calendar days, the case manager shall:

a. Inform the client and AR that the client will be terminated from the CDASS service delivery option in accordance with §8.510.12 and 8.510.9.C within 30 calendar days.

b. The case manager will work collaboratively with the client to secure IHSS or agency based waiver services.

c. The case manager shall provide the client with a Notice of Action, in accordance with §8.510.12.A.1 and §8.510.12.A.2. This notice provides the client with their appeal rights.

d. The case manager shall notify the client FMS organization of the date on which the client is being terminated from CDASS.

6. If the client's authorized representative does not submit an employee application within 30 calendar days following training or does not have two attendants approved for employment through the FMS vendor within 60 calendar days following training, the case manager shall:

a. Inform the client and AR that the client will be terminated from the CDASS service delivery option in accordance with §8.510.12 and 8.510.9.C within 30 calendar days.

b. The case manager will work collaboratively with the client to secure IHSS or agency based waiver services.

c. The case manager shall provide the client with a Notice of Action, in accordance with §8.510.12.A.1 and §8.510.12.A.2. This notice provides the client with their appeal rights.

d. The case manager shall notify the client FMS organization of the date on which the client is being terminated from CDASS.