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DEPARTMENT OF HEALTH AND HUMAN SERVICES

DIVISION OF HEALTH CARE FINANCING AND POLICY

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Stacie Weeks,
JD MPH
Administrator

Notice of Meeting to Solicit Public Comments and Intent to Act Upon Amendments to the Medicaid Services Manual (MSM)

Public Hearing June 27, 2023 Summary

Date and Time of Meeting: June 27, 2023, at 10:05 AM

Name of Organization: State of Nevada, Department of Health and Human Services (DHHS), Division of Health Care Financing and Policy (DHCFP)

Place of Meeting: DHCFP
1100 E. William Street
First Floor Conference Room
Carson City, Nevada 89701

Teleconference and/or Microsoft Teams Attendees

(Note: This List May Not Include All Participants, Just Those Who Identified Themselves)

Malinda Southard, Deputy Administrator, DHCFP	Antonio Brown, DHCFP
Karen Griffin, Senior Deputy Attorney General	Monica Schiffer, DHCFP
Casey Angres, DHCFP	Reagan Hart
Michael Gorden, DHCFP	Maria Reyes, Fidelis-Rx
Megan Quintana, DHCFP	Stephanie Sadabseng, DHCFP
Kindra Berntson, DHCFP	Adrienne Navarro, Aging and Disability Services Division (ADSD)
Robin Ochenschlager, DHCFP	Robin Robinson, ADSD
Lisa Kunz, Touro	Brooke Gruger, Liberty Dental
Sean	Christy Nguyen, Fidelis-RX
Marcel Brown, DHCFP	Serene Pack, DHCFP
David Olsen, DHCFP	Kirsten Coulombe, DHCFP
Candace McClain-Williams, DHCFP	Michelyn Y. Domingo, Anthem
Cloris Barrientos, DHCFP	Alex Tanchek, De
Ellen Flowers, DHCFP	Kaelyne Day, DHCFP
Abigail Bailey, DHCFP	Melody Hall-Ramirez, DHCFP
Loretta Cook, DHCFP	Jessica Vannucci, DHCFP
Mark Rosenberg, Fidelis Rx	Sarah Dearborn, DHCFP
Keith Benson, DHCFP	Crystal Wren, ADSD
Carin Hennessey, DHCFP	Dilcia Andrade, ADSD
Arianna R. Ramos, ADSD	
Kimberly Adams, DHCFP	

Joseph Turner, DHCFP
Lori Follett, DHCFP
Dena Brennan, Gainwell Technologies, GWT
Amy Shogren, Black & Wadhams
Rebeka Acosta
Deana, Sierra Home Health Care
Jesse Wadhams, Black & Wadhams
Michael McMahan
Jeanette Verdin, Washoe Schools

Jeana C. Piroli, Washoe Schools
Luke Lim, Anthem
Amber Cronn, DHCFP
Stephen Samiotes, DHCFP
Carin Hennessey, DHCFP
Arianna R. Ramos, ADSD
Kaelyne Day, DHCFP

Introduction:

Casey Angres, Chief of Division Compliance, DHCFP, opened the Public Hearing introducing herself, Malinda Southard, Deputy Administrator, DHCFP, and Karen Griffin, Senior Deputy Attorney General.

Casey Angres – The notice for this public hearing was published on May 25, 2023, in accordance with Nevada Statute 422.2369.

1. **Public Comments:** There were none.
2. **Discussion and Proposed Adoption and Changes to Medicaid Services Manual**

Subject: MSM Chapter 1200 - Prescribed Drugs

Antonio Brown, Pharmacy Services Manager, DHCFP, presented revisions to MSM Chapter 1200 – Prescribed Drugs are being proposed to clarify coverage limitations of drugs without an FDA-approved indication. The proposed changes also identify drug classes that are exempt from Nevada Medicaid Preferred Drug List (PDL) restrictions under Nevada Revised Statute (NRS) 422.4025. In addition, the proposed revisions update the current prior authorization (PA) criteria for Ponvory® (ponesimod) to reflect trial and failure requirements of one Multiple Sclerosis (MS) disease-modifying therapy as recommended and approved by the Drug Utilization Review Board (DUR).

Providers who prescribe, dispense, or administer drugs may be affected by this change, including but not limited to the list of provider types (PT) in the agenda.

There is no financial impact on local government known.

The effective date of these changes is July 3, 2023.

At the conclusion of Antonio Brown's presentation, Casey Angres asked Malinda Southard and Karen Griffin if they had any questions or comments, they had none.

Public Comments: There were none.

Malinda Southard approved the changes, pending spelling and grammar checks.

3. **Discussion and Proposed Adoption and Changes to Medicaid Services Manual**
Subject: MSM Chapter 1200 - Prescribed Drugs

Kindra Berntson, Social Services Program Specialist for Pharmacy Services, DHCFP, presented the proposed revisions to MSM 1200 – Prescribed Drugs, based on recommendations approved at the April 20, 2023, DUR Board Meeting.

The proposed changes include new PA criteria added for Leqembi®(lecanemab-irmb) within the Alzheimer’s Disease Agents section, updated existing clinical criteria for Epidiolex® (cannabidiol), and addition of new PA criteria for Ztalmy® (ganaxolone) within the Anticonvulsants section. New PA criteria was added for Verkazia® (cyclosporine) within the Ophthalmic Anti-Inflammatory Agents section.

There is no financial impact on local government known.

The effective date of these changes is July 3, 2023.

At the conclusion of Kindra Berntson’s presentation, Casey Angres asked Malinda Southard and Karen Griffin if they had any questions or comments, they had none.

Public Comments: There were none.

Malinda Southard approved the changes, pending spelling and grammar checks.

Casey Angres – Closed the Public Hearing for proposed adoption and changes to MSM Chapter 1200 – Prescribed Drugs.

4. Discussion and Proposed Adoption and Changes to Medicaid Services Manual

Subject: MSM Chapter 2300 - Waiver for Persons with Physical Disabilities (PD)

Megan Quintana, Social Services Program Specialist, Long-Term Services and supports Home and Supports (LTSS) Home and Community Based Services (HCBS) Waivers Unit, DHCFP

Some of the major proposed changes to this chapter include the addition of Legally Responsible Individuals (LRI) to the pool of paid caregivers for the provision of personal care-like services including; homemaker, respite, chore, and adult companion, the addition of a private case management provider, modifications to the waiver slot waitlist, and transferring of the disability determination process to this chapter from the Medicaid Operations Manual (MOM) Chapter 1000, which will then be obsoleted. Additions were made throughout the chapter to align with the PD Waiver application renewal effective January 1, 2023, and to bring the person-centered planning process into compliance with the HCBS settings requirements under 42 Code of Federal Regulation (CFR) 441.301(c)(1) through (c)(5).

Throughout the chapter, grammar, punctuation, and capitalization changes were made, duplications removed, acronyms used and standardized, and language was reworded for clarity throughout. Renumbering and rearranging of sections was necessary.

****NOTE, the chapter has not been updated in its entirety since around 2012. All the updates and additions to this chapter were also added to the Frail Elderly (FE) Waiver MSM Chapter 2200 for consistency.

Section 2301 references to some state and federal regulations were removed and additional NRS and CFR were added to include required HCBS Final Regulation requirements.

Section 2303.1B was transferred from MOM Chapter 600. The process is outlined in the section, but some information was revised to reflect current procedures between DHCFP and ADSD.

Section 2303.1C added a new section outlining recipient responsibilities to become eligible for and receive waiver services.

Section 2303.2B added several new sections to waiver provider responsibilities, some of the major additions are listed below.

Section 2303.2B(3) added language indicating that providers must adhere to rules and regulations set forth in MSM Chapter 100 – Medicaid Program, and failure to comply may result in DHCFP’s right to terminate the provider’s contract.

Section 2303.2B(4) is a new section detailing reasons in numbers 1-8 where a provider may terminate services without providing notice. Additional requirements were included under letter (b) for instances in which a provider must provide notice to the recipient.

Section 2303.2B(5) added a new section detailing the process for when a provider would like to discontinue their provider agreement.

Section 2303.2B(10) added a section indicating when an LRI may provide personal care-like services including homemaker, respite, chore, and attendant care services.

Section 2303.2B(14) revised the Serious Occurrence Reporting (SOR) requirements language and added a new section detailing requirements for both public and private case management entities.

Section 2303.2B(15) rearranged and revised language regarding criminal background checks.

Section 2303.2B(20) added a new section outlining all training requirements for providers. The Provider Agencies section was removed and replaced with this section.

Section 2303.2C(10) added requirement for the recipient to work with their case manager to create a backup plan in case their caregiver is unable to provide services.

Section 2303.3 created a new section to encompass the intake process for new PD Waiver applicants. This process will be completed by an assigned ADSD Intake Specialist prior to program approval. Once the applicant is approved, they will be reassigned to their chosen case management provider agency.

Section 2303.3A(2) made modifications to the waiver slot waitlist. The waitlist process for new applicants was revised. Previously there were only three priority levels, now there are four priority levels, and they are the same for both FE and PD:

Level 1: Applicants previously in a hospital or nursing facility (NF) and who have been discharged to the community within six months and have a significant change in support systems and are in a crisis situation.

Level 2: Applicants who have a significant change in support systems and/or are in a crisis situation and require at least maximum assistance in a combination of four or more Activities of Daily Living (ADL).

Level 3: Applicants who have a significant change in support system and/or are in a crisis situation and require assistance with a combination of five or more ADL.

Level 4: Applicants who do not meet the criteria for priority levels 1-3.

Section 2303.3A(8) added a new section detailing the process in which an applicant will be informed of their choice of case management providers. Additionally, if the applicant does not make a selection, then a provider will be selected on their behalf based upon a rotation and geographical location.

Section 2303.4 added a brief description of case management services.

Section 2303.4A(1) added new sections detailing what activities are considered administrative and what activities are billable case management activities.

Section 2303.4A(2-3) the Social Health Assessment and Plan of Care (POC) development process was revised and is now completed by the case manager once the recipient is approved for waiver services and no longer part of the intake process.

There were also several additions made to include HCBS Final Regulation requirements, including modifications to the POC, residential setting requirements, and changes to the person-centered planning process.

Section 2303.4A(4) added a new section outlining the person-centered contact requirements for case managers.

Section 2303.4A(12) added a new process on how a recipient can request to change their case management provider.

Section 2303.4B(1-2) revised this section to include enrollment requirements for both public and private case management providers.

Section 2303.4C(3) added this section indicating the recipient is responsible to choose an enrolled case management provider.

Section 2303.5 added a brief description of the service.

Section 2303.5A removed a sentence stating LRIs cannot provide this service.

Section 2303.5A(6) added a section to indicate that LRIs can provide this service with certain limitations – live-in LRIs are limited to two hours per week and non-live-in caregiver's service hours will be based on the case manager's assessment of the recipient's living conditions.

Section 2303.5C added a new section outlining requirements for using an Electronic Visit Verification (EVV) system.

Section 2303.6 added a brief description of the service.

Section 2303.6C added a new section outlining requirements for using an EVV system.

Section 2303.7 added a brief description of the service.

Section 2303.7B removed a sentence indicating that family members may not be paid for providing this service.

Section 2303.7C added a new section outlining requirements for using an EVV system.

Section 2303.8 added a brief description of the service.

Section 2303.8A(5) added language to align with the HCBS Final Regulation indicating that the personalized POC is to be developed with the recipient and people of their choosing, and personalized care must be furnished to individuals in a way that fosters their independence.

Section 2303.8B removed several sections regarding licensure requirements.

Section 2303.8B(3) added language specific to the HCBS Final Regulation and residential facilities providing HCBS waiver services. Some of the key additions are the following: Bullet f - provider must maintain privacy, dignity, and respect during the provisions of waiver services and ensure recipient's living units are not entered without permission. Bullet g - provider to allow recipients to have visitors of their choosing at any time. Bullet l - ensure recipients are free from coercion and restraint and recipients retain freedom of choice. Bullet q - ensure recipients are provided the opportunity to seek employment, engage in community life, control personal resources, and receive services in the community to the same degree as those not receiving Medicaid HCBS. Bullet r - allow each recipient privacy in their sleeping or living unit including having lockable doors, staff must knock before entering, allow choice of roommates, and are able to utilize personal furniture, furnishings etc. to personalize their living space. Bullet s - not to have a lease or other agreement that differs from those not receiving Medicaid HCBS. Additionally, the provider must provide a 30-day notification to the recipient prior to transfer or discharge, and the notification must be given in writing. The recipient must be allowed the opportunity to discuss the proposed transfer/discharge within ten calendar days after receiving the written notice. Bullet t - provider must notify the recipient's case manager when a modification to the POC is made that restricts their freedom of choice.

Section 2303.8C created a new section indicating recipients must cooperate with providers and report any service delivery issues to the facility administrator and their case manager.

Section 2303.9 added brief description of the service.

Section 2303.9A.3 removed language indicating that family cannot provide this service.

Section 2303.9C added new section outlining requirements for using an EVV system.

Section 2303.10 added a brief description of the service.

Section 2303.10A(4) added a requirement for individuals residing in a rental property to receive approval from their landlord prior to authorizing any Environmental Accessibility Adaptations (EAA).

Section 2303.10C added new section outlining additional recipient responsibilities including notifying the provider or case manager of any issues with the installation, not to request any additional modifications that have not been authorized, and notifying the case manager once the service has been completed.

Section 2303.11 added brief description of the service.

Section 2303.11A(4) added language indicating authorization is not to exceed two meals per day.

Section 2303.11B removed some of the provider requirements listed as they are outlined on the Provider Enrollment checklist.

Section 2303.11C created a new section indicating recipients must notify the case manager timely if they would like to request changes to the service, and if they do not receive the authorized number of meals.

Section 2303.12 added a brief description of the service.

Section 2303.13B updated language for provider requirements and removed some as they are outlined in the Provider Enrollment checklist.

Section 2303.13C added new section detailing additional recipient responsibilities specific to this waiver service.

Section 2303.15 created a new section outlining the LTSS initial review criteria to include evaluation of the Level of Care screening and completion of required intake forms.

Section 2303.17 renamed the section and removed some language.

Section 2303.21 added an additional paragraph indicating case manager responsibilities to provide information to the recipient regarding Advance Directives.

Section 2304 was renamed, and a brief description of adverse actions was added.

Section 2304.3 removed a denial reason indicating services can be met by an LRI.

Physically Disabled Waiver (PT 58) will potentially be affected by these changes.

There is no financial impact on local government known.

The effective date of these changes is July 1, 2023.

At the conclusion of Megan Quintana's presentation, Casey Angres asked Malinda Southard and Karen Griffin if they had any questions or comments, they had none.

Public Comments: There were none.

Malinda Southard approved the changes, pending spelling and grammar checks.

Casey Angres – Closed the Public Hearing for proposed adoption and changes to MSM Chapter 2300 – Waiver for Persons with Physical Disabilities.

5. Discussion and Proposed Adoption and Changes to Medicaid Services Manual

Subject: MSM Chapter 2200 - Home and Community based Waiver for the Frail Elderly (FE)

Megan Quintana, Social Services Program Specialist, LTSS Home and Community Based Services, Waivers Unit, DHCFP.

Some of the major proposed changes to MSM Chapter 2200 include the addition of LRIs to the pool of paid caregivers for the provision of personal care-like services including; homemaker, respite, chore, and adult companion, the addition of a private case management provider, and modification to the waiver slot waitlist. Additions were made throughout the chapter to align with the approved FE Waiver application amendment which became effective April 1, 2023, and to bring the person-centered planning process into compliance with the HCBS settings requirements under 42 CFR 441.301(c)(1) through (c)(5).

Throughout the chapter grammar, punctuation, and capitalization changes were made, duplications removed, acronyms used and standardized, and language was reworded for clarity throughout. Renumbering and rearranging of sections was necessary to be consistent with the PD Waiver MSM Chapter 2300. Many of the updates made to MSM Chapter 2200 were already presented under MSM Chapter 2300.

Section 2201 references to some state and federal regulations were removed and added additional NRS and CFR were added to include required HCBS Final Regulation requirements.

Section 2203.2B(4)(a) is a new section detailing reasons in numbers 1-8 where a provider may terminate services without providing notice. Additional requirements were included in Bullet b - for cases in which a provider must provide notice to the recipient.

Section 2203.2B(5) added a new section detailing the process for when a provider would like to discontinue their provider agreement.

Section 2203.2B(10) added a section indicating when a LRI may provide personal care-like services including homemaker, respite, chore, and adult companion.

Section 2203.2B(14) revised the Serious Occurrence Reporting (SOR) requirements language. A new section was added detailing requirements for both public and private case management entities.

Section 2203.3 is a new section created to encompass the intake process for new FE Waiver applicants. This process will be completed by an assigned ADSD Intake Specialist prior to program approval. Once the applicant is approved, they will be reassigned to their chosen case management provider agency.

Section 2203.3A(2) modifications to the waiver slot waitlist were made. The waitlist process for new applicants was revised. Previously there were six priority levels. There are now four levels, and they are the same levels as were presented under PD MSM Chapter 2300.

Section 2203.4 added a brief description of the service.

Section 2203.4A(1) added a new section detailing what activities are considered administrative and what activities are billable case management activities.

Section 2203.4A(2-3) revised the Social Health Assessment and POC development process which is now completed by the case manager once the recipient is approved for waiver services and no longer part of the intake process. There were also several additions made to include HCBS Final Regulation requirements including modifications to the POC, residential setting requirements, and changes to the person-centered planning process.

Section 2203.4A(4) added a new section outlining the person-centered contact requirements for case managers.

Section 2203.4A(12) added a new process on how a recipient can request to change their case management provider.

Section 2203.4B(1-2) was revised to include enrollment requirements for both public and private case management providers.

Section 2203.4C added indicating the recipient is responsible to choose an enrolled case management provider.

Section 2203.5A(6) added to indicate that LRIs can provide this service with certain limitations. Live-in LRI caregivers are limited to two hours per week and non-live-in LRI caregiver's service hours will be based on the case manager's assessment of the recipient's living conditions.

Section 2203.8A(4), added language indicating the authorization is not to exceed two meals per day.

Section 2203.10B added additional provider requirements for this service.

Section 2203.11A(5) added a paragraph detailing that LRIs are allowed to provide this service only when no other similar services are in place such as Adult Day Care or recipient is living in a residential group home. There is a limit to two hours/day and is based on the case manager's assessment and only if the primary and live-in caregiver needs a break or to run errands, etc.

2203.12B(3) added to align with the HCBS Final Regulation settings requirements.

Section 2203.14 DHCFP LTSS Initial Review **Note that there is a typo, and it should be numbered 2203.14. A new section was created outlining the LTSS initial review criteria to include evaluation of the LOC screening and completion of required intake forms.

Section 2203.16 was renamed and some language was removed.

Section 2204 was renamed and a brief description of adverse actions was added.

The effective date of these changes is July 1, 2023.

The following PTs will potentially be affected by these changes, Frail Elderly Waiver (PT 48), Frail Elderly in a Residential Facility for Groups (PT 57), and Frail Elderly in an Assisted Living Facility (PT 59).

There are no known financial impacts on local government.

At the conclusion of Megan Quintana's presentation, Casey Angres asked Malinda Southard and Karen Griffin if they had any questions or comments, they had none.

Public Comments: There were none.

Malinda Southard approved the changes, pending spelling and grammar checks.

Casey Angres – Closed the Public Hearing for proposed adoption and changes to MSM Chapter 2200 - Home and Community based Waiver for the Frail Elderly.

6. Discussion and Proposed Adoption and Changes to Medicaid Operation Manual

Subject: MOM Chapter 600 - KATIE BECKETT (KB) ELIGIBILITY OPTION

Michael Gorden, Social Services Manager, DHCFP presented revisions to MOM Chapter 600 are being proposed to present the major changes including new premium methodology, obsolescence of MOM Chapter 1000, Disability Determination Program and transfer to MOM Chapter 600 – Katie Beckett.

The following changes were introduced to the Katie Beckett families on May 10, 2023, in a public workshop.

Agenda item 6(a) noted presentation of proposed changes to MOM Chapter 600 – Katie Beckett including new cost sharing premium methodology. A friendly amendment to this verbiage to remove the wording "cost sharing."

All definitions were moved to the addendum per division standards. General language and grammar were updated and reformatted to be consistent with other chapters.

Section 603.2A(4), changed quarterly contacts to every six months (with the exception of Pediatric Specialty cases).

As noted in the previous agenda items, The Disability Determination section in MOM Chapter 1000 has been relocated to MOM Chapter 600, Section 603. 5 as MOM Chapter 1000 is being obsoleted.

This section includes the disability determination / redetermination time frames that can be authorized up to seven years (changed from a max of three years) and Acceptable Medical Sources: Licensed Physicians, Advanced Practice Nurse, Physician Assistant, Licensed Psychologist, etc.

In Section 603.6 the Premium Matrix Methodology replaces the Parental Financial Obligation. This updated methodology brings a new level of transparency and fairness to the premium. Premiums range from \$20 a month to a maximum of \$250 a month. This process is now per family unit versus per child as several families have more than one child on the program. This greatly reduces the burden on most

families as the previous method had amounts ranging as high as \$11,500 a month to have Medicaid as a secondary coverage.

Section 603.7 has been updated to: Review of annual cost neutrality vs quarterly cost lookback (2 years for compliance). This was mentioned earlier in the SPA change.

Section 604 shows the addition of a section on Hearings.

At this time there were no known entities financially affected and no financial impact on local government.

The effective date of these changes is July 1, 2023.

At the conclusion of Michael Gorden's presentation, Casey Angres asked Malinda Southard and Karen Griffin if they had any questions or comments, they had none.

Public Comments: There were none.

Malinda Southard approved the changes, pending spelling and grammar checks.

Casey Angres – Closed the Public Hearing for proposed adoption and changes to MOM Chapter 600 - Katie Beckett Eligibility Option.

7. Discussion and Proposed Adoption and Changes to Medicaid Operation Manual

Subject: MOM Chapter 1000 - Disability Determination Program

Michael Gorden, Social Services Manager, DHCFP presented the MOM Chapter 1000, Disability Determination Program, has been removed for obsolescence and the terminology has been transferred to MOM Chapter 600.

At this time there were no known entities financially affected and no financial impact to local government.

The effective date of these changes is July 1, 2023.

At the conclusion of Michael Gorden's presentation, Casey Angres asked Malinda Southard and Karen Griffin if they had any questions or comments, they had none.

Public Comments: There were none.

Malinda Southard approved the changes, pending spelling and grammar checks.

Casey Angres – Closed the Public Hearing for proposed adoption and changes to MOM Chapter 1000 - Disability Determination Program.

8. Adjournment

There were no further comments and Casey Angres closed the Public Hearing at 10:48 AM.

****An Audio (CD) version of this meeting is available through the DHCFP Compliance office. For more detailed information on any of the handouts, submittals, testimony and or comments please contact Jenifer Graham at documentcontrol@dhcp.nv.gov with any questions.***