

ADMINISTRATIVE COMPLAINT

Office for Civil Rights
U.S. Department of Health and Human Services
200 Independence Avenue, S.W., Room 509F
Washington, DC 20201

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
7500 Security Boulevard
Baltimore, Maryland 21244

RE: Discriminatory provision of case management services to people with disabilities and request for immediate action by the federal agencies.

THE PARTIES

The National Health Law Program (NHeLP) protects and advances the health rights of low-income and underserved individuals through advocacy, education, and litigation at the federal and state levels. For 55 years, NHeLP has worked with our national, state, and local partners to ensure that individuals with disabilities have the Medicaid services they need. The Colorado Center on Law and Policy (CCLP) is a state-focused nonprofit anti-poverty organization that uses legal and administrative tools to ensure that all Coloradans have what they need to succeed, including access to quality, affordable health care.

NHeLP and CCLP file this complaint pursuant to 45 C.F.R. § 80.7(b). As described below, Colorado's Medicaid agency and its contractors and agents are administering the Medicaid program in ways that are subjecting people with disabilities to discrimination. Medicaid-enrolled individuals with disabilities who access services through the State's case management entities are not able to get the case management services they need to ensure that their Medicaid eligibility is maintained and that their Person-Centered Support and Service Plans are established and implemented as required by law. Persistent problems with the ongoing transition to a new case management structure and the accompanying Information Technology system are causing enrollees to lose eligibility and experience gaps in care and services.

The next phase of the case management transition is set to occur on March 1, 2024. CCLP and NHeLP respectfully ask the federal agencies to take immediate action, as requested below, so that more people are not harmed.

LEGAL BACKGROUND

As a public entity, the Colorado Department of Health Care Policy and Financing (HCPF) must comply with Title II of the Americans with Disabilities Act (ADA) and ensure that no qualified individual with a disability, by reason of disability, is excluded from participation in or is denied the benefits of Medicaid coverage, or is subject to discrimination by HCPF. 42 U.S.C. § 12132. HCPF cannot

directly or through contractual or other arrangements, utilize criteria or methods of administration . . . [t]hat have the effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability . . . [or] [t]hat have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the public entity’s program with respect to individuals with disabilities.

28 C.F.R. § 35.130(b)(3)(i)-(ii). The ADA was enacted to address the pattern of unequal treatment in the administration of state services and programs. *Tennessee v. Lane*, 541 U.S. 509, 524–27 (2004); see also *Helen L. v. DiDario*, 46 F.3d 325, 335 (3d Cir. 1995) (“[T]he ADA evolved from an attempt to remedy the effects of ‘benign neglect’ resulting from the ‘invisibility of the disabled’ . . . [and is] intended to insure that qualified individuals receive services in a manner consistent with basic human dignity rather than a manner that shunts them aside, hides, and ignores them.”).

“Title II of the ADA imposes affirmative obligations on public entities and does not merely require them to refrain from intentionally discriminating against the disabled.” *Dunn v. Dunn*, 318 F.R.D. 652, 655 n.12 (M.D. Ala. 2016) (collecting cases) (cleaned up). Entities must evaluate the programs and services they offer to ensure that people with disabilities are not denied the benefits of public services and to provide individuals the means necessary to access those services. *Pierce v. District of Columbia*, 128 F. Supp. 3d 250, 269 (D.D.C. 2015); *Henrietta D. v. Bloomberg*, 331 F.3d 261, 275–76 (2d Cir. 2003). “DOJ and HHS both enforce the Americans with Disabilities Act (ADA) with respect to state Medicaid programs. . . . This includes providing individuals with disabilities equal opportunity to participate in and benefit from a state’s Medicaid program.” U.S. Dep’t of Justice Civil Rts. Div. & Ctrs. for Medicare & Medicaid Services, Dear State Medicaid Admin. & Other Interested Parties (Jan. 24, 2024).

FACTUAL BACKGROUND

Colorado furnishes medical assistance, including as relevant here, case management to Medicaid-enrolled individuals who require long term services and supports (LTSS).¹ Case management activities include assessment of an individual’s needs and development and implementation of a Person-Centered Support Plan, referrals to services and supports, coordination and monitoring of LTSS delivery, evaluation of service effectiveness, and periodic reassessment of such individual’s needs.² Case managers are also responsible for completing periodic Level of Care (LOC) assessments, which are required for individuals to continue to be enrolled one of the State’s

¹ LTSS are “services and supports used by individuals of all ages with functional limitations and chronic illnesses who need assistance to perform routine daily activities.” 10 CCR 2505-10:8.7200.B(19), <https://hcpf.colorado.gov/sites/hcpf/files/Doc%2003%20MSB%2023-03-13-Av1%20Final%20-%20Jan%202024.pdf>.

² 10 CCR § 8.7200.B(4).

ten home and community based services (HCBS) waiver programs.³ For many years, individuals have received case management services through one of three State contracting entities: Single Entry Points (SEPs), Community Centered Boards (CCBs), or private Case Management Agencies.⁴ Specifically,

- SEPs have provided case management services for individuals to obtain care and services through the Brain Injury waiver, Community Mental Health Supports waiver, Elderly, Blind, and Disabled waiver, Complementary and Integrated Health waiver, Children’s Home and Community Services waiver, and Children with Life-Limiting Illness waiver.
- CCBs have provided case management services for individuals to obtain care and services through the Developmental Disabilities waiver, Supported Living Services waiver, Children’s Extensive Support waiver, and Children’s Habilitation Residential Program waiver.
- Private Case Management Agencies have provided case management services to people on the Children’s Home and Community Based Services waiver.

In 2023, the State began implementing a process called case management redesign.⁵ The redesign is establishing a new set of case management agencies (CMAs) for Coloradans enrolled in one of the State’s HCBS waivers. HCPF has divided the state into 20 geographic areas, called “defined services areas” and contracted with several new case management agencies to furnish services in each of the areas. The State is transitioning to statewide use of CMAs for all waiver programs (and phasing out use of SEPs, CBs, and Private Case Management Agencies). Once the transition is complete, all LTSS recipients will receive case management services from the agency that holds the contract in their defined service area.⁶

The first wave of transitions, Phase I, occurred on November 1, 2023. Phase 2 is scheduled for March 1, 2024 and Phase 3 for July 1, 2024.⁷ As a result, thousands of Coloradans who utilize LTSS have already experienced a change of case management agency and many more will soon be transitioned.⁸

As part of the redesign, Colorado is also switching its software platform to a new vendor, AssureCare. The software is used to document case management activities and store case

³ *Id.* §§ 8.7100.D(9); 8.7202.E, 8.7202.F; <https://hcpf.colorado.gov/hcbs-waivers>.

⁴ HCPF, *Case Management Redesign FAQs*, <https://hcpf.colorado.gov/case-management-redesign>.

⁵ HCPF, *Conflict Free Case Management*, <https://hcpf.colorado.gov/conflict-free-case-management>. This redesign was, in part, a response to improper conflicts of interest involving case management entities also providing direct services to Medicaid enrollees. *See* 42 C.F.R. § 441.301(c)(1)(vi).

⁶ HCPF, *Case Management Redesign FAQs*, <https://hcpf.colorado.gov/case-management-redesign#FAQ>.

⁷ HCPF, *Informational Memo: Case Management Agency (CMA) Request for Proposal (RFP) Status Update*, 3-4 (Aug. 11, 2023) https://hcpf.colorado.gov/sites/hcpf/files/HCPF%20IM%2023-024%20Case%20Management%20Agency%20%28CMA%29%20Request%20for%20Proposal%20%28RFP%29%20Status%20Update_1.pdf.

⁸ HCPF, *Case Management Redesign Updates*, 3 (Jan. 24, 2024), <https://docs.google.com/document/d/1-qk54GSyYDyMhrUzsEms3jdghOCvDobBOrJRG23ZGBg/edit>.

management documents.⁹ Case managers are required to use this new system for all Medicaid enrollees with disabilities who need LTSS.

These changes to case management are coming on the heels of the COVID pandemic. In March 2020, to obtain enhanced federal funding under the Families First Coronavirus Response Act, HCPF implemented processes to maintain Medicaid eligibility and pause annual Medicaid redeterminations for individuals enrolled in the program. After the Consolidated Appropriations Act announced that this continuous coverage requirement would end on March 31, 2023, Colorado restarted Medicaid eligibility redeterminations for all Medicaid enrollees, in a process referred to as “unwinding.” Colorado’s Medicaid unwinding plan provides for all enrollees—including those receiving LTSS—to go through the renewal process on their enrollment anniversary date.¹⁰ Colorado’s county-administered eligibility system requires that staff in each of Colorado’s 64 counties process eligibility for all applicants and ensure continued enrollment for all Medicaid enrollees in their county, including people with disabilities who depend on Medicaid-covered LTSS.

STATEMENT OF PROBLEMS

The simultaneous efforts to renew eligibility for all Medicaid enrollees during unwinding and revamp the case management system have resulted in ongoing, improper terminations of coverage for many Coloradans with disabilities, their inability to access needed services and benefits, and significant confusion and stress for them. Undertaking these two enormous projects concurrently has had particularly negative results for LTSS recipients who are experiencing distinct barriers due to both unwinding and the case management agency transitions.

1. HCPF is aware that county staff turnover and vacancies have caused processing backlogs for enrollees during the unwinding’s Medicaid renewal process.¹¹ Based on conversations with enrollee advocates, the lack of adequate experience and training at the county level has had particular impact on disability-based renewals, which require more documentation as well as coordination with CMAs and, at times, with the State’s vendor for disability determinations, Arbor.¹²

⁹ HCPF, Care and Case Management FAQ, <https://hcpf.colorado.gov/care-case-management-faq>.

¹⁰ Public Health Emergency Planning: End of the Federal COVID-19 Public Health Emergency. <https://hcpf.colorado.gov/covid-19-phe-planning>.

¹¹ HCPF, FY25, S-06 BA-06 PHE Unwind_Final, Jan 2, 2024 at 10, (stating “it has been exceptionally difficult for counties to keep term-limited staff hired . . . As of July 2023, 9 out of the largest 11 counties have renewal backlogs that exceed the Department’s performance standards.” https://hcpf.colorado.gov/sites/hcpf/files/HCPF%2C%20FY25%2C%20S-06%20BA-06%20PHE%20Unwind_FINAL%20-%20Rem.pdf; Supplemental Budget Requests, FY 2023-24 and FY 2022-23, Department of Health Care Policy and Financing, p. 27. https://leg.colorado.gov/sites/default/files/cy24_hcpsup1.pdf. See also Complaint ¶ 67, *U.S. v. Colorado*, 1:23-cv-2538 (ECF No. 1) (“Individuals routinely experience long delays while awaiting financial eligibility determinations the State requires for Medicaid-funded waiver services.”); County Connections Email Newsletter, Sept 11, 2023, 4 (attached hereto as Exhibit A) (stating “HCPF has received concerns that members could be incorrectly terminating or denying for a Level of Care determination and/or Disability Determination”).

¹² Disability Application, p. 14: “Arbor E & T, LLC dba Action Review Group (ARG) is a partner with and contracted by the State of Colorado’s Department of Health Care Policy and Financing

2. HCPF has pursued the case management redesign without adequate protections in place to ensure that enrollees on LTSS are not incorrectly losing coverage. As described below, HCPF has (I) created confusion and backlogs when it shortened Phase I timelines for enrollees to choose a CMA, (II) failed to ensure that case managers can access clients' historical documents in the new IT system, and (III) permitted case manager caseloads that are unreasonably high or, in some cases, require individuals to use multiple case managers instead of having a primary case manager or single point of contact.

3. As a result of HCPF's administrative choices, individuals who were transitioned to new CMAs in Phase 1 have experienced significant delays in accessing LTSS services and in their CMAs completing LOC assessments necessary to maintain their Medicaid eligibility. Despite awareness of these ongoing problems, HCPF has refused to pause procedural terminations for Medicaid enrollees who need LTSS. HCPF is also preparing to move forward with Phase 2 transitions on March 1, 2024, a move that will place even more enrollees who need LTSS at risk of erroneously losing their Medicaid coverage.

These failures on HCPF's part constitute methods of administration that substantially impair provision of Medicaid coverage to individuals with disabilities, particularly those who need LTSS.

I. HCPF shortened timelines for assignments to new CMAs.

At the outset of the transition process, HCPF promised to “work[] with both incoming and outgoing agencies to ensure a smooth transition for members,” asserting that “[t]he impact on members should be minimal,” and that “[m]ost of the transition process will be business processes, contracts, materials, and files which are done ‘behind the scenes.’”¹³ Medicaid enrollees were told to expect “outreach and communication regarding a change in their case management agency from both HCPF and the awarded case management agency.”¹⁴ In August 2023, HCPF assured the public that “HCPF communication will go out to members by the end of September [2023].”¹⁵

The assignments to new CMAs, however, were seriously flawed. HCPF prohibited CMAs from communicating with their members about the transition, except through HCPF-approved letters.¹⁶ When that communication was finally approved and sent out, many members did not receive the letter, and those that did reported “that they did not receive the letter early enough to ask questions and understand the impact of the change.”¹⁷ Additionally, HCPF assured members that they would

(HCPF) to perform medical records review services to determine the level and severity of disability according to the criteria and rules established by the Social Security Administration.”
<https://hcpf.colorado.gov/sites/hcpf/files/Disability%20Application%20-%20English.pdf>.

¹³ HCPF, Case Management Redesign FAQs, <https://hcpf.colorado.gov/case-management-redesign#FAQ>.

¹⁴ *Id.*

¹⁵ *Id.* at 4.

¹⁶ Operational Memo 23-056, Case Management Redesign—Member Exceptions Process at 5 (Sept. 6, 2023), <https://hcpf.colorado.gov/sites/hcpf/files/HCPF%20OM%2023-056%20Case%20Management%20Redesign%20-%20Member%20Exceptions%20Process.pdf>.

¹⁷ HCPF, Case Management Redesign Updates, 7-8 (Jan. 24, 2024),

have the choice to remain with their current case manager and that an exception process to remain with the member's previous agency would be available in most cases.¹⁸ HCPF's timeline to contract with the new CMAs was delayed until almost October 1, leaving the newly installed CMAs with insufficient time to get information from enrollees about their choice of agency. To complicate matters further, many enrollees believed they had followed correct procedures to make their preferences to stay put known but were nevertheless, and without their knowledge, assigned elsewhere. Sorting through this muddle took many weeks and resulted in regular case management activities being delayed. CMAs' caseloads remain uncertain.

And while problems with enrollee assignments to catchment areas/CMAs have been widespread, there were particular glitches with assignments from a zip code in the Denver metro area that straddles three different counties.¹⁹ Those problems took several weeks to identify and are still not fully resolved.

After receiving complaints about CMAs not knowing who is in their catchment area, HCPF stated that it is developing a "new member status report," planning to go live by the end of this month.²⁰ However, the system has not yet been road tested (and it is unclear whether it will be), and there has been no discussion of remediation for people already harmed by loss of coverage or lack of access to services.

II. HCPF's implementation of the new case management IT system has caused delays.

The new case management IT system has posed enormous challenges. Based on advocates' conversations with case managers and statements made by agency staff in public meetings, the new CMAs responsible for enrollees in their newly defined catchment areas are unable to access their new clients' case histories or historic documentation through the AssureCare IT system.²¹ According to these sources, only the agencies that served clients prior to the transition retain full access to the old IT system and its full case histories of their former clients.

Although Phase 1 of the transitions occurred on November 1, 2023, it was not until December 2023 that HCPF undertook a project to migrate documents to the new system. According to an email

<https://docs.google.com/document/d/1-qk54GSyYDyMhrUzsEms3jdghOCvDobBOrJRG23ZGBg/edit>.

¹⁸ *Id.* "Exceptions will be made if a person moves across defined service area boundaries and wants to continue being served by their previous agency. The process for this portability allowance and exception is still being formulated and will likely differ by defined service area. . . . [I]ndividuals are able to retain their case manager if they so choose." HCPF, *Case Management Redesign FAQs*, <https://hcpf.colorado.gov/case-management-redesign#FAQ>.

¹⁹ HCPF, *Case Management Redesign Updates at 8* (Dec 6, 2023), <https://docs.google.com/document/d/1-qk54GSyYDyMhrUzsEms3jdghOCvDobBOrJRG23ZGBg/edit>.

²⁰ *Id.*, Jan. 24, 2024 update at 4 (referring to a "different" approach to member data and creation of "pre-transition" and "post-transition" member lists "to ensure member roster accuracy").

²¹ HCPF, *Care and Case Management Known Issues*, <https://hcpf.colorado.gov/ccm-ki>; *Developmental Pathways, CMRD Known Issues*, <https://www.community.dpcolo.org/cmrd-known-issues>.

from HCPF staff, the belated timing of that migration was “to reduce system downtime.”²² However, as of February 2024, CMAs still lack access to full case histories through the new IT system. Getting access requires time-consuming, manual workarounds that have taken HCPF over a month to put in place and that necessitate communication between the new agency and the old IT system.²³ Not surprisingly, sources in case management agencies say each of these workarounds require training and additional time, further straining already overloaded case managers (see below).²⁴

There are many other challenges with the new IT system that interfere with case managers’ ability to conduct case management for their clients, each of which necessitate time-consuming workarounds.²⁵ The new CMAs acknowledge these issues may cause a “pause in services.”²⁶

III. High caseloads at new CMAs are causing significant delays.

HCPF is required to use methods of administration to ensure “proper and efficient operation” of the Medicaid program, 42 U.S.C. § 1396a(a)(4), and ensure that eligibility and services are provided “in a manner consistent with simplicity of administration and the best interests of the recipients,” *id.* § 1396a(a)(19). HCPF has pursued the case management redesign without adhering to these bedrock principles. HCPF has failed to ensure that its newly designated agencies have sufficient staff to provide timely case management services. HCPF represented that “[i]n the event there is a transition HCPF works closely with both incoming and outgoing agencies to ensure there is very minimal impact on members. The majority of staff transition to the new agency, and individuals are able to retain their case manager if they so choose.”²⁷ That has not happened.

Instead, advocates report understaffing and high caseloads at the newly designated agencies. Frequently, they report that, while a Medicaid enrollee has been assigned to an agency, the agency has not yet assigned an individual case manager, and the agency states that it will *take weeks* for an assignment to be made. One advocate reported that, in the last two weeks, three clients transferred from a historic agency to a new CMA had been “lost.” Another reported being told it would take six weeks to get a case manager assigned to a client. Medicaid-eligible people with disabilities cannot get into the system or access services without this case management.

²² “Data migration of three years of historical data from the legacy systems (DDDWeb and Benefits Utilization System (BUS)) occurred following Care and Case Management implementation to reduce system downtime. Data migration was completed on December 1, 2023.” Email from HCPF staff at 1 (attached hereto as Exhibit B).

²³ Access to a Member’s Record, HCPF, October 24, 2023, https://docs.google.com/document/d/1MQezf6glJn_47ChyiiChyXiEwx48eXwS8yXglS7ocuU/edit.

²⁴ See HCPF, Care and Case Management Known Issues, <https://hcpf.colorado.gov/ccm-ki>.

²⁵ CCM System Job Aids, HCPF, https://drive.google.com/drive/folders/1Se9_B2-5hyUzwdKq-byR2TK6I7vL1ES4.

²⁶ Developmental Pathways, CMRD Known Issues <https://www.community.dpcolo.org/cmrd-known-issues>; Rocky Mountain Human Services, What You Should Know: Case and Case Management System Information and Support, <https://www.rmhumanservices.org/ccm-issues-support>.

²⁷ HCPF, Case Management Redesign FAQs, <https://hcpf.colorado.gov/case-management-redesign#FAQ>.

There are also reports of strain on employees that has resulted in their leaving the CMA, thus exacerbating the problem. One of the new CMAs is seeking to hire a large amount of people because it is severely understaffed.²⁸ Despite HCPF’s insistence that most enrollees will remain with their case manager, one advocate reported that the new CMA did not hire a single case manager from the former agency. Although some well-connected advocates have been able to get a case manager assigned when they contact higher-up management at the CMA, most enrollees do not have contacts, phone numbers, or emails that can speed up the process. Advocates state that many people do not know who their case manager is or how to find out. And to reiterate: Case management activities that are needed to obtain/maintain eligibility and ensure the delivery of appropriate services cannot occur in the absence of an assigned case manager.

Even when case managers are assigned, workloads are creating delays. According to reports received by the Colorado Cross-Disability Coalition, the State has reported a CMA to enrollee ratio of 80:1. This ratio is unmanageable. A report to HCPF about caseloads warned that “over-bearing caseloads inhibit the ability of case managers to deliver high-quality case management” and noted that 65:1 would be a “more sustainable” level.²⁹ Finally, the impact of strained caseloads is set to become even worse: The State has just begun to enforce requirements for case managers and applicants/enrollees to have face-to-face meetings.³⁰

IV. Medicaid enrollees with disabilities are improperly losing Medicaid coverage, but HCPF will not pause terminations to address the problems.

The problems outlined above are causing eligible individuals with disabilities to lose Medicaid coverage and LOC assessments (and, thus, LTSS). Without case histories in the new IT system, CMAs are unaware that a LOC assessment is due and individuals’ eligibility has lapsed. Furthermore, the flawed assignment process and high caseloads have resulted in CMAs not completing or submitting the LOC assessments in time. Advocates report that they have multiple clients whose benefits have been terminated because the LOC assessment had expired, with no action by the CMA. One advocate reported recently attending an administrative hearing regarding a termination due to a missing LOC and a missing disability determination; the CMA had yet to perform the new LOC assessment and the court had to grant a continuance. For some enrollees, even when a LOC determination is up to date, the CMA does not send the required documentation to the

²⁸ Rocky Mountain Human Services Career Opportunities (visited Feb. 8, 2024, <https://www.paycomonline.net/v4/ats/web.php/jobs?clientkey=9BEE3EBF701E08BFBFC0CCC35420494A> (listing 18 careers)).

²⁹ HCPF, *Operational Mem. 23-061: Case Management Agency Caseload Requirements* (Oct. 5, 2023), <https://hcpf.colorado.gov/sites/hcpf/files/Case%20Management%20Agency%20Caseload%20Requirements%20-%20Operational%20Memo.pdf>; Myers & Stauffer, *HCPF: Case Management Recommendation Report* 9-10 (Nov. 2022), <https://hcpf.colorado.gov/sites/hcpf/files/Colorado%20Case%20Management%20Recommendation%20Report-November%202022.pdf>.

³⁰ HCPF, *Operational Memo 23-068: Case Management Contact Requirements and In-Person Meetings* (Oct. 17, 2023), <https://hcpf.colorado.gov/sites/hcpf/files/HCPF%20OM%2023-068%20Case%20Management%20Contact%20Requirements%20and%20In-Person%20Meetings.pdf>.

county in time to prevent a termination of eligibility—either because no case manager was yet assigned or because the case managers could not access case histories and case documents. What makes these problems worse is that many county staff do not have the training or experience to know how to track down missing documentation manually. The system stalls out.

Given the depth and breadth of the problems, allowing the next wave of CMA assignments to go forward on March 1, 2024 will result in additional erroneous terminations for people with disabilities who need daily access to services and medications. While some efforts have clearly been made to reduce the scope of the problems, they are not sufficient.³¹ Advocates have requested that the State seek waivers (similar to those which CMS has granted to other states) to prevent terminations for enrollees with disabilities on long-term services and supports until case management assignment and IT problems have been resolved.

REQUESTED RELIEF

We ask that OCR and DOJ take immediate steps to:

- (a) pause Phase 2 of case management transition that is currently scheduled to go forward on March 1, 2024;
- (b) pause all Medicaid terminations for waiver-enrolled individuals for failure to provide level of care assessments; and
- (c) ensure those pauses continue until HCPF demonstrates that all CMAs:
 - (1) can access historic documents;
 - (2) are reliably assigning individual case managers to individuals within 5 days of their enrollment in a CMA, and sooner if the individual is being discharged from an inpatient stay or in an emergency/urgent situation; and
 - (3) have sufficient staff to ensure reasonable caseloads no greater than 65:1.

Dated: February 21, 2024

Respectfully submitted,

Sarah Grusin
Jane Perkins
National Health Law Program
1512 E. Franklin St., Ste. 110
Chapel Hill, NC 27514
grusin@healthlaw.org
perkins@healthlaw.org

Bethany Pray
Katherine Wallat
Colorado Center on Law and Policy
789 Sherman St #300
Denver, CO 80203
bpray@copolicy.org
kwallat@copolicy.org

³¹ One example is an effort to address disenrollment by giving CMAs greater access to the PEAK online eligibility system. *See* Co. Dep’t of Health Care Pol. & Fin., Operational Mem. 24-002: Launch of Streamline Eligibility & PEAKPro (Jan. 8, 2024), <https://hcpf.colorado.gov/sites/hcpf/files/HCPF%20OM%2024-002%20Launch%20of%20Streamline%20Eligibility%20%26%20PEAKPro.pdf>.

Exhibit A

From: [HCPF County Connections](#)
To: [Katie Wallat](#)
Subject: County Connections - August 2023
Date: Monday, September 11, 2023 8:41:39 AM

You don't often get email from hcpf_countycommunications+state.co.us@ccsend.com. [Learn why this is important](#)

Sept. 11, 2023



County Connections

This Department of Health Care Policy & Financing (HCPF) newsletter is designed to inform county directors, management and staff about high-impact updates, important changes, county performance, new guidance, and program changes.

Join our Mailing List

Visit County Administration
Webpage

High-Impact Updates

Message from the Executive Director

Call to Action: Keep Coloradans Covered

HCPF created [resources](#) for you to share in public areas – flyers, posters, messaging, social media, and more. Please use these resources today to help us renew those who continue to qualify for our safety net health coverage programs and connect those who no longer qualify for our programs to affordable, alternative coverage.

Providers, educators, counties, community leaders and advocates – you are our trusted messengers on the ground, seeing our members when they walk through your doors. We

ask that you meet them where they are, post flyers, send notifications, make phone calls, talk to them when they're in front of you, and remind them to open mail from the state, complete, sign and send in the packet by the renewal deadline.

- [HealthFirstColorado.com/renewals](https://www.healthfirstcolorado.com/renewals) has plain language resources in English and Spanish with links to help members with what they need to know about the renewal process and where to find help completing a renewal.
- It is common for members to miss their renewal deadline. Members should submit the renewal packet they already received if they are within the 90-day window of their renewal anniversary. If they do not take action within those 90 days, they must reapply (fill out and submit a new application) to regain coverage if they are eligible.
- The renewal process may take longer for individuals with disabilities who access HCBS waiver supports. Please encourage members who receive waiver services and their support community to take action early and seek help with their renewals if they need it. HCPF is actively working with advocates, Regional Accountable Entities, case management agencies and counties to implement initiatives that focus on these members.
- Please remind parents that children may still qualify for Health First Colorado or CHP+ coverage even if the parents no longer do.

Long-Term Care (LTC) and Buy-In Renewal Extension

A CBMS update will automatically extend the renewal period for 60 days for Long-Term Care (LTC), individuals on Waivered Services, and Buy-In recipients who have yet to return their renewal packet on time during COVID Unwind.

HCPF is providing an additional 60-day extension to assist our vulnerable populations, including Long-Term Care (LTC), individuals on Waivered Services, and Buy-In recipients who have not returned their renewal packet on time during COVID Unwind.

CBMS will add 60 days to September renewals for vulnerable populations, including Long-Term Care (LTC), individuals on Waivered Services, and Buy-In recipients who do not return their renewal packet on time. This does not include cases that have already closed.

Action: Below are resources for eligibility workers that provide additional information and data entry guidance.

- The Staff Development Division (SDD)
 - *MA Renewal for LTC & Buy-in Population Desk Aid*
- Navigate to the **Document Library** [on the website](#) and find the above titled desk aid in the Long-Term Care folder
- [The COVID Resources for County and Eligibility Partners](#)
 - Aug. 24 HCPF/Eligibility Sites COVID Unwind Touch Base Meeting
- Slide Deck **(coming soon)**
- Recording

Contact: Any questions regarding this communication may be directed to hcpf_medicaid.eligibility@state.co.us.

PHE Unwinding Reporting

HCPF will be reporting its progress on “unwinding” the continuous coverage requirement to the federal government. HCPF will link these reports on the [Continuous Coverage](#)

[Unwind Data Reporting page](#) and include links to this information in our [monthly COVID-19 newsletter](#).

The information reported to the Centers for Medicare & Medicaid Services (CMS) is point in time data about renewals as required by federal reporting and does not include all the new members coming into the program or those who will take action during the 90-day reconsideration period. Members can resume coverage if they still qualify by returning their renewal packet and any missing information to their county for processing within 90 days of losing coverage. Based on pre-pandemic information, on average, about half of the members who had lost eligibility were deemed eligible for Medicaid again within two years.

FAQs about unwinding reporting is in the [PHE Resource Center](#).

Temporary Extension for All Members Up for Renewal

HCPF will be temporarily extending members' renewals due in September and October who have not yet submitted their renewal packet. This is to comply with recent federal guidance. This will be done this evening, Tuesday, Sept. 5.

HCPF received [new guidance from the Centers for Medicare and Medicaid Services \(CMS\)](#) on Aug. 30, 2023, that requires a change to the ex parte process for renewals. Instead of renewing members with ex parte at the household level (all members of a household receiving Health First Colorado or CHP+ benefits reviewed for eligibility at the same time), CMS is requiring states to perform ex parte reviews on an individual basis, meaning each person in the household is reviewed and approved separately. This new guidance will require significant changes to our eligibility system that will need to be done in a phased approach. As a result, HCPF is implementing a temporary renewal extension for all members up for renewal in September and October until we implement a short-term system change in mid-October to bring us into compliance with CMS guidance. The extension and short-term system change will not impact the member's experience of the renewal process. Members are strongly encouraged to complete, sign, and return their renewal packet right away.

Action: New functionality is not being added. **This means no additional action is needed from eligibility workers beyond normal processing of renewals.** Similar to the Long-Term Care (LTC) and Buy-In Renewal Extension, the extension will be done systematically by setting the **Data Entry Complete** field in CBMS to **No** on the **Case Wrap up** screen. This is for September and October Medical Assistance renewals in which a renewal packet has not yet been started and will prevent a termination for failure to return the renewal packet. This will not affect renewals that have been started in CBMS and are already in progress.

Renewals that are received from members should be started in CBMS within 24-48 hours of receipt and processed accordingly. Once data entry is complete, eligibility workers must manually update the **Data Entry Complete** field to **Yes** and run eligibility.

Contact: hcpf_medicaid.eligibility@state.co.us

Recent Memo Series Issued to Counties

All memos and their attachments are on the [Memo Series website](#).

Policy Memos

None

Operational Memos

HCPF OM 23-054

[Eligibility Dispute Resolution Tracking](#)

The Purpose of this Operational Memo is to reiterate expectations for county departments of human/social services and Medical Assistance Sites, collectively referenced as “eligibility sites,” of the changes that took place with the implementation of House Bill 16-1277 on Sept. 1, 2016. This Operational Memo also sets monthly reporting requirements for dispute resolution conferences held within each Eligibility Site to begin with the month of September 2023 Dispute Resolutions. Please share this letter with all Eligibility Site staff involved with Health First Colorado Eligibility Appeals.

HCPF OM 23-051

[FY 2022-23 Accuracy Performance Incentive](#)

The purpose of this Operational Memo is to provide guidance to county departments of human/social services (counties) on how to operationalize the FY 2022-23 County Incentives Program Accuracy Incentive. The County Incentives Program creates performance-based benchmarks and deliverables for county departments of human/social services to achieve certain performance standards related to County Administration and Medical Assistance Eligibility. The Accuracy Incentive states the Contractor shall comply with monthly Eligibility Quality Assurance (EQA) case reviews to monitor the accuracy and timeliness of eligibility determinations for Medical Assistance made by the Contractor, with cases pulled monthly for quality review. Results of the EQA reviews are displayed on the MAP Accuracy Dashboard. ** This Operational Memo was updated in June 2023 to reflect revised payment methodology. See section: Earning the Accuracy Performance Incentive Payment **

Informational Memos

None

Informational Updates

Review existing training material on pending cases in CBMS due to Long-Term Care (LTC) Level of Care (LOC) and Disability Determination.

HCPF is requesting eligibility workers review the existing training materials on pending a case during intake, renewal, and ongoing in CBMS for LTC LOC and Disability Determinations to keep a case from closing incorrectly when these items are still outstanding with a Case Management Agency and/or the state disability vendor.

HCPF has received concerns that members could be incorrectly terminating or denying for a Level of Care determination and/or Disability Determination. Eligibility sites are being directed to please review the following training materials to ensure these cases pend when

needing a Level of Care and/or Disability Determination. The Staff Development Division (SDD) has existing detailed web-based training (WBT) and process manuals that provide a step-by-step process for entering and pending cases for LTC LOC and Disability Determinations.

The Process Manuals provide:

- The steps to pending a case in CBMS for LTC LOC or how to enter the LTC LOC once the Case Management Agency has provided it to the eligibility site.
- A step-by-step process for how to enter a Disability Determination into CBMS or pending a case for a Disability Determination.

The WBTs provide Detailed instructions for:

- Disability Determination in the *Health First Colorado Buy-In Program WBT*
- LOC information in the *Long-Term Care (LTC) Categories & Special Circumstances WBT*

Each of these WBTs has Instructor-Led Training attached, where the instructor outlines and guides eligibility workers to practice the data entry in the CBMS using the TRN Environment.

Action: Below are the existing Process Manuals and WBTs eligibility workers should review for data entry guidance.

- <https://training.colorado.gov/>
 - *Entering and Pending for an LTC Level of Care Process Manual*
 - *Entering a Disability Determination Process Manual*
- [COLearn](#)
 - *Health First Colorado Buy-In Program WBT*
 - *LTC Categories & Special Circumstances WBT*

Additional Resource: The County Dashboard LTC Board will display Level of Care certifications due within the next 60 days and Disability Diary Dates expiring within the next 60 days for Long-Term Care. This information is updated via nightly batch. Please consider using this information to proactively plan on supporting members with the information needed to renew the LOC or Disability status and connect with appropriate partners for a timely determination of LOC and/or Disability.

Contact: Any questions regarding this communication may be directed to hcpf_medicaid.eligibility@state.co.us.

Processing Incarcerated Applications

As a reminder, Medicaid applications must be processed regardless of incarceration. Applications should be approved and placed into incarcerated status if the individual is otherwise eligible and incarcerated at the time of the determination. Please see below where this is referenced in rule:

8.100.3.G.1.b.ii. Inmates who are incarcerated in a correctional institution such as a city, county, state or federal prison may be enrolled, if eligible, with benefits limited to an inpatient stay of 24 hours or longer in a medical institution.

Thank you for your support in ensuring Coloradans have timely access to their benefits.

Partner Webinars

HCPF will be hosting quarterly informational sessions about the end of the Continuous Coverage Requirement and the COVID-19 public health emergency. These webinars are geared toward community partners such as advocacy organizations, providers, and community organizations who may provide other assistance to Health First Colorado or CHP+ members (housing, social services, etc).

The presentation and recording from the July 26, 2023, PHE Unwinding webinar are posted in the [PHE Resource Center](#).

Next Webinar Information

When: Oct. 25, 2023, 1 - 2:30 p.m. Mountain Time

[Register in advance for this webinar](#).

After registering, you will receive a confirmation email containing information about joining the webinar.

We would like your feedback on the format of future webinars to ensure they are productive for all. Please take a moment to take [this survey](#) to inform the structure of future webinars.

New Training Released - RRR/Renewal

In collaboration with our HCPF and CDHS partners, the Staff Development Division has released a new training volume titled *RRR/Renewal*.

This volume will take the learner through the basics of an RRR/Renewal, as well as dive into more specific information and actions for each High-Level Program Group (HLPG) to include, Medical Assistance, SNAP, Adult Financial (AF), Colorado Works (CW), and Long-Term Care (LTC).

With this new volume, the following web-based trainings (WBTs) have been released in COLearn:

- *RRR/Renewal Basics*
- *Medical Assistance Renewals*
- *SNAP RRR*
- *SNAP PRF*
- *AF RRR/Renewal*
- *CW RRR/Renewal*
- *LTC RRR Part 1*
- *LTC RRR Part 2*

The *RRR/Renewal* training can be accessed in COLearn by following one of the steps below:

1. New workers will find this new volume as part of the HLPG curriculums accessed by clicking on the program's bubble on the Welcome Page.
2. Existing workers will find this new volume by clicking on the *RRR/Renewal* link in the Experienced Worker section on the Welcome page under the header Self-Guided Playlists by Topic.

This new volume will also include the following desk aids located in the Document Library on [Training.colorado.gov](https://training.colorado.gov):

- Acceptable Forms for RRR/Renewal (updated)
- *MA Processing Information*
- *PRF Processing*
- *SNAP Processing Information*

- *SNAP Rescind, Reinstatement, Reopen*
- *SNAP Late Verification Flowchart*
- *AF/CW RRR/Renewal Checklist*
- *Late RRR/Renewal, Late Verifications and Missed Interview related to Good Cause*
- *Child Support Pass Through*
- *Income Trust Ledger*

Contact: For questions regarding this training, please email the Staff Development Division at soc_staffdevelopment@state.co.us.

How can you help support members during the PHE unwinding process?

HCPF has developed extensive partner toolkits regarding the end of the continuous coverage requirement. [Update Your Address](#), [Understanding the Renewal Process](#) and [Take Action on Your Renewal](#) toolkits all include resources to help members take action to keep their coverage. A new joint webpage KeepCOCovered.com includes partner resources and information for those who may need to transition to other health coverage. [Flyers have recently been developed for Colorado employers](#) to distribute to their employees to help spread the word.

You can help us raise member awareness about the renewal process by sharing the messaging in our toolkits. The materials in the toolkits identify key actions for members to take: updating contact information, taking action when a renewal is due, and seeking help with renewals at community or county resources when they need it. Flyers, social media messaging and graphics, website content, and other outreach tools are in our [PHE Planning Resource Center](#). Partners can also educate themselves and their staff on the basics of the renewal process to assist members who may need help. See our [Renewal Education toolkit](#).

[Frequently Asked Questions \(FAQs\)](#) about the end of the continuous coverage requirement and return to regular renewal processes are available in the [PHE Planning Resource Center](#). Members with questions about the renewal process can learn more by visiting Health First Colorado's renewal webpage available in [English](#) and [Spanish](#).

HCPF - New COVID-19 Unwind Resources

HCPF is releasing this communication to inform eligibility sites of two new COVID-19 unwind resources.

Details:

1. The End of Public Health Emergency for COVID-19 and Returning to Normal Operation memo, on [the 2023 memo series webpage](#).
1. A COVID-19 unwind section has been added to the Eligibility and Resource HCPF webpage under the [FAQs and Training](#) section, which includes the following:
 - The COVID-19 Unwind Educational Session held on Feb.15, 2023
 - The webinar recordings
 - The presentation materials
 - COVID-19 Unwind FAQs
 - COVID-19 Unwind MA Renewal Ex-Parte Flowchart Desk Aid

Questions regarding this communication may be directed to:
hcpf_medicaid.eligibility@state.co.us.

County Relations Team Introduces Customer Relationship Management System

Do you need help? Do you have a question? Does a case need to be escalated? There are two ways you can contact the HCPF County Relations team.

1. [County Relations Web Form](#). Try this method first. It allows you to enter details to help us resolve your issues.
2. [County Relations Email](#). You can still email us at hcpf_countyrelations@state.co.us. Your email to us will automatically create a service ticket with your email included. We cannot open encrypted messages within our ticketing system.

Supplemental Information

HCPF Contacts & Resources

Quick Links

[Volume 8 - Medicaid & CHP+ Rules](#)
[HCPF Forms & Rules](#)
[Training Topics, References, Guides](#)

HCPF Publications

[Memo Series](#)
[Budget Documents](#)
[HCPF Publications](#)

[County Administration](#)

[Staff Development Center \(SDC\) Homepage](#)

[CBMS Client & User Materials](#)

[CO.Learn/Learning Management System Login](#)

[County Fact Sheets](#)

[Premiums, Expenditures, Caseload Reports](#)

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

[Unsubscribe kwallat@cclponline.org](mailto:Unsubscribe_kwallat@cclponline.org)

[Update Profile](#) | [Constant Contact Data Notice](#)

Sent by hcpf_countycommunications@state.co.us

Exhibit B

From: [Lubitz - HCPF, Rhyann](#)
To: [Bethany Pray](#)
Cc: [Katie Wallat](#); [Amanda Lofgren - HCPF She, Her](#)
Subject: Re: Case management redesign
Date: Thursday, January 18, 2024 4:13:22 PM
Attachments: [Outlook-facebook.png](#)
[Outlook-Twitter.png](#)
[Outlook-YouTube.png](#)

Hello

First and foremost, my deepest apologies for the delay in responding to your email. I aim for a much quicker response to concerns and apologize that unfortunately this was stuck in my draft email/outbox.

Second, thank you for sharing this information. While I had a delay in responding I have been working internally on the concerns brought to HCPF.

Many of your questions are addressed in the Case Management Redesign Update newsletter that launched on December 6, 2023 [CMRD Update](#) . We are working on the next update/newsletter at this time. I hope this newsletter is of value and helps to answer some of the questions that may arise as we implement Case Management Redesign.

For the items below, I provided some information but also hope you can share some specifics with me on the identified questions/concerns.

- Receiving CMAs cannot see case history, according to CMA staff in conversation with advocates and families;
 - Data migration of three years of historical data from the legacy systems (DDDWeb and Benefits Utilization System (BUS)) occurred following Care and Case Management implementation to reduce system downtime. Data migration was completed on December 1, 2023. Are you hearing this concern after 12/1?
- Receiving CMAs cannot see a full list of who is attributed to them;
 - HCPF is temporarily running a weekly enrollment report based on members' program status for the CMAs until the existing enrollment report stabilizes within the CCM. HCPF is developing a formal communication to CMAs containing report criteria and action steps for use in assisting CMAs to understand how each report works and steps to take if an inaccuracy is identified for a member (we are testing this first with 2 agencies) . Also, ongoing technical assistance is being provided to individual CMAs to problem-solve on reports and members associated with their CMA.

Because the CCM functions differently than the previous systems CMAs are accustomed to, a new member status report is under development that includes all members associated with the CMA regardless of program status. HCPF estimates this report will be developed in the coming weeks. Once deployed, this report will be provided to the CMAs weekly until it is fully incorporated into the CCM for CMAs to run at the cadence best suited for the agency.

- People contact receiving CMAs and no CM is assigned, even though fairly immediate action is required to ensure services continue or eligibility continues;
 - I will address this concern with CMAs as members are to have access to a case manager. CMA leaders are tracking tasks to be performed to ensure eligibility and service access continue. Can you share if you are still hearing this as a concern?

- CMAs (whether or not involved in a recent transfer) are not sending out reminders about the need to renew disability determinations and families are caught unawares; this has been flagged in JeffCo and Denver in particular and has resulted in terminations, per disability advocates;
 - I would like to dive into a few examples if you could connect me with additional information or a contact.

- CMAs are backlogged and are not processing new cases timely, with staff from more than one agency saying they had a 3-month backlog (I sent you the one email from Developmental Pathways where they sent an new applicant out to an independent agency because they weren't taking cases).
 - Thank you for escalating the concern related to Developmental Pathways performing case management services for the Children's Home and Community Based Service waiver program. I am happy to report that they are performing case management activities for this waiver program, both new applicants and existing members. In speaking with case management agencies in the metro area I am aware that staffing is creating challenges but have not encountered a three month backlog. Can you provide me with additional information so I can address this?

- Problems with the one zip code (80123) that straddles counties, with many

cases improperly assigned

- HCPF continues to verify member addresses and their county of residence to ensure the member is with the correct CMA. HCPF provided member contact lists to the new CMAs, on December 1, 2023 for Phase 1 transitions, and will continue to work with them to match members to the correct agency. We are also meeting with Rocky Mountain Human Services and Developmental Pathways 3-4 times per month on their member lists to ensure this has been addressed/corrected.
- This information is also included in the Case Management Redesign Updates newsletter linked above for your reference.

Thank you for your continued partnership!

Rhyann

On Fri, Dec 8, 2023 at 8:31 AM Bethany Pray <bpray@cclponline.org> wrote:

Hi Rhyann,

Katie and I had raised some CMRD-related questions with HCPF during a check-in with eligibility staff, many of which you may be familiar with from your conversations with staff at CCDC and elsewhere - but which are affecting people's ability to stay enrolled. We meet with a group of advocates on Monday and may be able to get additional information then.

Problem identified include the following:

- Receiving CMAs cannot see case history, according to CMA staff in conversation with advocates and families;
- Receiving CMAs cannot see a full list of who is attributed to them;
- People contact receiving CMAs and no CM is assigned, even though fairly immediate action is required to ensure services continue or eligibility continues;
- CMAs (whether or not involved in a recent transfer) are not sending out reminders about the need to renew disability determinations and families are caught unawares; this has been flagged in JeffCo and Denver in particular and has resulted in terminations, per disability advocates;
- CMAs are backlogged and are not processing new cases timely, with staff from more than one agency saying they had a 3-month backlog (I sent you the one email from Developmental Pathways where they sent an new applicant out to an independent agency because they weren't taking cases).
- Problems with the one zip code (80123) that straddles counties, with many cases improperly assigned

We would be interested in hearing whether these are issues that the Department is working to address or has already addressed.

About a meeting, It could make the most sense to invite you to one of our upcoming sessions with our disability group, instead of checking in with just me and Katie, and I can ask them about that possibility. We're also able to send lists of problems by email as we hear about them, if you would prefer that to a meeting.

Thank you for reaching out -

Best,
Bethany

Bethany Pray

she/her ([why pronouns matter](#))

Deputy Director

Colorado Center on Law and Policy

789 N. Sherman St., Suite 300

Denver, CO 80203

e: bpray@cclponline.org

t: 303-573-5669 x310

cclponline.org



NOTICE: The information contained in this e-mail message and any attachments are confidential and may be legally privileged. This message is intended only for the individual(s) named herein. If you are not the intended recipient, please notify the sender and delete the message immediately. Please do not store, copy or otherwise disseminate or distribute this e-mail or any part of it.

From: Lubitz - HCPF, Rhyann <rhyann.lubitz@state.co.us>

Sent: Thursday, December 7, 2023 5:04 PM

To: Katie Wallat <kwallat@cclponline.org>; Bethany Pray <bpray@cclponline.org>

Cc: Amanda Lofgren - HCPF She, Her <amanda.lofgren@state.co.us>

Subject: Case management redesign

Hello

Matt Keelin shared that you were interested in meeting with Amanda Lofgren or myself regarding case management redesign. I was unable to attend the standing meeting you had with the Department on November 21 at 11:30am. Amanda is out of the office currently but will return on December 18.

Are you still interested in meeting regarding case management redesign? If so I am happy to schedule a meeting to connect

Best

Rhyann

Rhyann Lubitz
Quality Performance Section Manager
Office of Community Living



NOTE: To resolve a CCM issue, call the CCM Call Center at 1-844-235-2387 M-F 7 a-5 p. Submit CCM policy questions to hcpf_ccm_stakeholder@state.co.us. Also see: [FAQs](#), [known issues](#), and [CCM Roadmap to Success](#).

303 E 17th Ave, Denver, CO 80203
rhyann.lubitz@state.co.us | Colorado.gov/hcpf

--

Rhyann Lubitz
Quality Performance Section Manager
Office of Community Living



NOTE: To resolve a CCM issue, call the CCM Call Center at 1-844-235-2387 M-F 7 a-5 p. Submit CCM policy questions to hcpf_ccm_stakeholder@state.co.us. Also see: [FAQs](#), [known issues](#), and [CCM Roadmap to Success](#).

303 E 17th Ave, Denver, CO 80203
rhyann.lubitz@state.co.us | Colorado.gov/hcpf