



**DEPARTMENT OF HUMAN SERVICES**

**Behavioral Health**

**BEHAVIORAL HEALTH ADMINISTRATIVE RULES**

[2 CCR 502-6](#)

**CHAPTER 1: GENERAL STATUTORY AUTHORITY AND DEFINITIONS**

**1.1 Statutory Authority**

- A. Pursuant to Section 27-50-107, C.R.S., the State Board of Human Services, created pursuant to Section 26-1-107, C.R.S., is the type 1 board for promulgating, revising and repealing BHA rules.

**1.2 General Definitions**

- A. "Behavioral Health Administration" or "BHA" means the Behavioral Health Administration established in Section 27-50-102, C.R.S.
- B. "Behavioral health administrative services organization" or "BHASO" means a regionally based behavioral health organization that administers and maintains adequate networks of behavioral health safety-net services and care coordination as described in sections 27-50-301 through 304, C.R.S.
- C. "BEHAVIORAL HEALTH ENTITY" HAS THE SAME MEANING AS DEFINED IN SECTION 27-50-101(4), C. R.S.
- D. "Commissioner" means the commissioner of the Behavioral Health Administration appointed pursuant to Section 27-50-103, C.R.S.

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**CHAPTER 2: BEHAVIORAL HEALTH ADMINISTRATIVE SERVICES ORGANIZATION  
REQUIREMENTS ~~STATUTORY AUTHORITY AND DEFINITIONS~~**

**2.1 Statutory Authority**

- A. Pursuant to Section 27-50-405(4), C.R.S., the BHA may promulgate rules as necessary to implement behavioral health administrative service organizations and care coordination services.

**2.2 Form and Manner to Apply to be a Behavioral Health Administrative Services Organization (BHASO)**

- A. Pursuant to Section 27-50-402, C.R.S., the BHA shall determine, by rule, the form and manner a qualified public or private corporation; for-profit or not-for-profit organization; or public or private agency, organization, or institution may apply to be a behavioral health administrative services organization (BHASO).
- B. The Commissioner shall select a BHASO based on factors of selection that include, but are not limited to:
1. The applicant's experience working with publicly funded clients, including expertise in treating priority populations determined by the BHA;
  2. The applicant's experience working with and engaging relevant stakeholders in the service area, including behavioral health providers; state and local agencies; and the local community, including advocacy organizations and clients of behavioral health services;
  3. The extent to which real or perceived conflicts of interest between the applicant and behavioral health facilities or behavioral health providers are mitigated; and
  4. The extent to which the applicant's board complies with conflict of interest policies, including to the following:
    - a. The board shall not have more than fifty percent of contracted providers as board members;
    - b. Providers who have ownership or board membership in a BHASO shall not have control or decision-making authority in the establishment of provider networks; and
    - c. An employee of a contracted provider of a BHASO shall not also be an employee of the BHASO unless the employee is the clinical officer or utilization management director of the BHASO. If the individual is also an employee of a provider that has board membership or ownership in the BHASO, the BHASO shall develop policies approved by the Commissioner to mitigate any conflict of interest the employee may have.
  5. The extent to which the applicant's board membership reflects the diversity and interests of relevant stakeholders, including, but not limited to, representation by individuals with lived behavioral health experience and family of individuals with lived behavioral health experience.
- C. At least once every five (5) years any qualified public or private corporation; for-profit or not-forprofit organization; or public or private agency, organization, or institution may apply through a competitive bid process pursuant to the Colorado Procurement Code, Colorado Revised Statutes, Articles 101 to 112 of Title 24, to apply to be a behavioral health administrative services organization.

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**CHAPTER 3: ADMINISTRATION AND IMPLEMENTATION OF THE SYSTEM OF CARE FOR CHILDREN AND YOUTH**

**3.1 STATUTORY AUTHORITY**

- A. PURSUANT TO SECTION 27-64.5-102(2), C.R.S., BHA IS REQUIRED TO PROMULGATE RULES FOR THE ADMINISTRATION AND IMPLEMENTATION OF THE SYSTEM OF CARE FOR CHILDREN AND YOUTH.

**3.2 DEFINITIONS**

- A. “CHILD WITH SERIOUS EMOTIONAL DISTURBANCES (SED)” MEANS A CHILD OR ADOLESCENT THAT HAS A MENTAL, BEHAVIORAL OR EMOTIONAL DISORDER, WHICH: (1) HAS BEEN DIAGNOSED THROUGH THE CURRENT DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS; THE DC 0 TO 5; OR INTERNATIONAL CLASSIFICATION OF DISEASES BY A LICENSED MENTAL HEALTH PROFESSIONAL, AND (2) HAS EXPERIENCED FUNCTIONAL IMPAIRMENTS, WHICH INTERFERES WITH THE CHILD’S FUNCTIONING IN FAMILY, SOCIAL RELATIONSHIPS, SCHOOL, OR COMMUNITY, AND (3) EXPERIENCED THE EMOTIONAL DISTURBANCE OVER THE PAST 12 MONTHS PRIOR TO APPLICATION ON A CONTINUOUS OR INTERMITTENT BASIS, AS DETERMINED AND DOCUMENTED BY A LICENSED MENTAL HEALTH PROFESSIONAL. SED SHALL NOT INCLUDE A PRIMARY DIAGNOSIS OF SUBSTANCE-RELATED DISORDERS, OR PRIMARY CONDITIONS OR PROBLEMS CLASSIFIED IN THE DSM AS “OTHER CONDITIONS THAT MAY BE A FOCUS OF CLINICAL ATTENTION.”
- B. “COLORADO CHILD AND ADOLESCENT NEEDS AND STRENGTHS TOOL (CANS)” IS AN EVIDENCE-BASED, VALIDATED, DECISION-SUPPORT TOOL DESIGNED TO IDENTIFY THE STRENGTHS AND NEEDS OF CHILDREN, YOUTH, AND THEIR FAMILIES AND FACILITATE THE LINKAGE BETWEEN THE PROCESS AND THE DESIGN OF INDIVIDUALIZED SERVICE PLANS INCLUDING THE APPLICATION OF EVIDENCE-BASED PRACTICES. THE CANS SUPPORTS LEVEL-OF-CARE DECISION-MAKING, FACILITATES QUALITY IMPROVEMENT INITIATIVES, AND ALLOWS FOR THE MONITORING OF SERVICE OUTCOMES.
- C. “COMPLEX TRAUMA” MEANS EXPOSURE TO EITHER MULTIPLE OR PROLONGED TRAUMATIC EVENTS, OFTEN INVASIVE AND INTERPERSONAL IN NATURE, OR A SINGLE EPISODE TRAUMATIC EXPERIENCE, THAT HAVE A PROFOUND AND PROLONGED IMPACT ON NORMAL EMOTIONAL, NEUROLOGICAL, OR BEHAVIORAL DEVELOPMENT, SUCH AS WITNESSING THE DEATH OF A CAREGIVER; OR PHYSICAL, SEXUAL, OR EMOTIONAL ABUSE OR NEGLECT RESULTING IN THE INDIVIDUAL’S LOSS OF A DEVELOPMENTALLY APPROPRIATE SENSE OF A WELL-ORDERED AND SAFE ENVIRONMENT.

- D. “ENHANCED STANDARDIZED ASSESSMENT” MEANS AN ASSESSMENT PROCESS THAT INCLUDES A BIOPSYCHOSOCIAL ASSESSMENT AND THE USE OF CHILD AND ADOLESCENT NEEDS AND STRENGTHS TOOL (CANS) USED TO MAKE RECOMMENDATIONS REGARDING THE APPROPRIATE LEVEL OF CARE AND INFORM TREATMENT PLANNING NECESSARY FOR CHILDREN AND YOUTH WITH COMPLEX AND UNMET BEHAVIORAL HEALTH TREATMENT NEEDS, DEVELOPED PURSUANT TO 27-64.5-102(1)(A), C.R.S.

### **3.3 ELIGIBILITY AND DETERMINATION OF ELIGIBILITY**

- A. THE ENHANCED STANDARDIZED ASSESSMENT DEVELOPED PURSUANT TO 27-64.5-102(1)(A), C.R.S.; SHALL BE ADMINISTERED TO DETERMINE ELIGIBILITY FOR PARTICIPATING IN THE SYSTEM OF CARE SERVICES.
1. ALL PERSONNEL CONDUCTING THE ENHANCED STANDARDIZED ASSESSMENT SHALL BE CERTIFIED BY BHA TO COMPLETE THE ENHANCED STANDARDIZED ASSESSMENT.
  2. THE COLORADO CHILD AND ADOLESCENT NEEDS AND STRENGTHS TOOL (CANS) MUST BE ADMINISTERED AS PART OF THE ENHANCED STANDARDIZED ASSESSMENT.
  3. ALL PERSONNEL CONDUCTING THE ENHANCED STANDARDIZED ASSESSMENT SHALL MAINTAIN CANS CERTIFICATION.
  4. ALL PERSONNEL CONDUCTING THE ENHANCED STANDARDIZED ASSESSMENT SHALL USE THE BHA-DESIGNATED ENHANCED STANDARDIZED ASSESSMENT AND CANS FORMS.
- B. THE POPULATIONS ELIGIBLE FOR THE SYSTEM OF CARE COMPONENTS ESTABLISHED BY 27-64.5-102(1), C.R.S. SHALL INCLUDE INDIVIDUALS THAT ARE UNDER THE AGE OF TWENTY-ONE YEARS, DETERMINED ELIGIBLE THROUGH THE ENHANCED STANDARDIZED ASSESSMENT PROCESS ESTABLISHED IN 27-64.5-102(1)(A), C.R.S., AND MAY MEET AT LEAST ONE OF THE FOLLOWING CRITERIA:
1. MEETS THE CRITERIA TO BE CONSIDERED A CHILD WITH SERIOUS EMOTIONAL DISTURBANCES (SED);
  2. IS EXPERIENCING COMPLEX TRAUMA AS DETERMINED AND DOCUMENTED BY A LICENSED MENTAL HEALTH PROFESSIONAL;
  3. DUAL DIAGNOSED WITH A MENTAL HEALTH CONDITION AND A SUBSTANCE USE DISORDER AND/OR INTELLECTUAL/DEVELOPMENTAL DISABILITY;

4. AT RISK OF A PSYCHIATRIC HOSPITALIZATION DUE TO SERIOUS EMOTIONAL OR BEHAVIORAL HEALTH CHALLENGES;
5. AT RISK OF PLACEMENT OUTSIDE THE HOME DUE TO SERIOUS EMOTIONAL OR BEHAVIORAL HEALTH CHALLENGES; AND/OR
6. IS INVOLVED WITH ONE OR MORE YOUTH-SERVING SYSTEMS OR AT RISK OF INVOLVEMENT IN MULTIPLE YOUTH-SERVING SYSTEMS, INCLUDING, BUT NOT LIMITED TO:
  - A. CRISIS SERVICES
  - B. EMERGENCY SERVICES
  - C. JUVENILE JUSTICE SYSTEM
  - D. COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES
  - E. SPECIAL EDUCATION SYSTEM

### **3.3 REQUIREMENTS FOR RESIDENTIAL TREATMENT PROVIDERS**

- A. RESIDENTIAL TREATMENT PROVIDERS PARTICIPATING IN THE SYSTEM OF CARE FOR CHILDREN AND YOUTH MUST OBTAIN CULTURAL COMPETENCY RELATED TO THE PROVISION OF SERVICES BY REQUIRING APPLICABLE TREATMENT STAFF TO RECEIVE CERTIFICATION FROM THE RESIDENTIAL CHILD CARE PROVIDER TRAINING ACADEMY ESTABLISHED IN 26-6-923, C.R.S.

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## **CHAPTER 4: CHILDREN AND YOUTH MENTAL HEALTH TREATMENT ACT**

These rules are intended to implement the mental health treatment services defined in the Children and Youth Mental Health Treatment Act, Sections 27-67-101 through 27-67-109, C.R.S., to ensure the maximum use of appropriate least restrictive treatment services and to provide access to the greatest number of children. The purpose of the Children and Youth Mental Health Treatment Act is to provide access to mental health treatment for eligible children who are Medicaid eligible as well as those who are at risk of out-of-home placement, as defined below. These rules are intended to provide a sliding fee scale for responsible parties to offset the cost of care not covered by private insurance or the family provided under the Children and Youth Mental Health Treatment Act. Appeal procedures for denial of Medicaid funded residential services and denial of Children and Youth Mental Health Treatment Act funding are established in the rules as well as a dispute resolution process for county departments and mental health agencies.

### **4.1 Definitions**

- A. "Ability to Pay" means the amount of income and assets of the legally responsible

person(s) available to pay for the individual cost of Children and Youth Mental Health Treatment Act funded services.

- B. "Care Management" means arranging for continuity of care and coordinating the array of service necessary for appropriately treating a child or youth; communicating orally or in-person with responsible individuals, and funded providers at least every thirty (30) calendar days to assure services are being delivered as planned and adequate progress is being made; discharge planning and development; and the authority to rescind authorization for any treatment services with proper notice.
- C. "Child at Risk of Out-of-Home Placement" means a child or youth who meets the following criteria:
1. Has been diagnosed as a person with a mental health disorder, as defined in Section-27-65-102(44-522), C.R.S. OR AS A PERSON SUFFERING FROM SOCIAL DETERMINANTS OF HEALTH, DIAGNOSED WITH Z CODES IN ICD-10-CM AND THE DIAGNOSTIC STATISTICAL MANUAL OF MENTAL HEALTH DISORDERS;
  2. Requires a level of care that is provided in a QUALIFIED RESIDENTIAL TREATMENT PROGRAM, AS DEFINED IN 26-5.4-102(2), C.R.S.; IN A PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY, AS DEFINED IN 25.5-4-103(19.5), C.R.S.; ~~residential child care facility pursuant to Section 25.5-5-306, C.R.S.~~; or that is provided through community-based programs and who, without such care, is at risk of unwarranted child welfare involvement or other system involvement, as described in Section 27-67-102, C.R.S., in order to receive funding for treatment;
  3. If determined to be in need of placement in a QUALIFIED residential TREATMENT FACILITY ~~child care facility~~ or psychiatric residential treatment facility, a child or youth shall apply for supplemental security income, but any determination for supplemental security income must not be a criterion for a child or youth to receive funding;
  4. The child or youth is a person for whom there is no pending or current action in dependency or neglect pursuant to Article 3 of Title 19, C.R.S.; and,
  5. The child or youth is younger than eighteen years of age at the time of applying, but ~~he or she~~ THEY may continue to remain eligible for services until ~~his or her~~ THEIR twenty-first birthday.
- D. "Children who are categorically Medicaid eligible" has the same meaning as defined in Section 25.5-5-101, C.R.S.

~~"Community Mental Health Center" has the same meaning as defined in Section 27-66-101(2), C.R.S.~~

- E. "Cost of Care" includes residential and community-based services not covered by private

insurance, the family, or Medicaid.

- F. "Community-Based Services" means any intervention that is designed to be an alternative to residential or hospital level of care in which the child or youth resides within a non-institutional setting and includes, but is not limited to, therapeutic foster care, intensive in-home treatment, intensive case management, and day treatment.
- G. "County Department" means the county department of human or social services.
- H. "Dependent" means a person who relies on the responsible person(s) for financial support.
- I. "Face-to-Face clinical assessment" for this Section ~~24-200.4~~, means a formal and continuous process of collecting and evaluating information about an individual for service planning, treatment, referral, and funding eligibility as outlined in ~~24-190~~ 2 CCR 502-1-8.4, and takes place at a minimum upon a request from the responsible person for funded services through the Children and Youth Mental Health Treatment Act. This information establishes justification for services and Children and Youth Mental Health Treatment Act funding. The child or youth must be EITHER physically in the same room as the LICENSED MENTAL HEALTH professional ~~person~~ OR INTERVIEWED REMOTELY USING VIDEO TECHNOLOGY during the Face-to-Face clinical assessment. ~~If the child is out of state or otherwise unable to participate in a Face-to-Face assessment, video technology may be used.~~ If the Governor or local government declares an emergency or disaster, telephone may be used. Telephone shall only be used as necessary because of circumstances related to the disaster or emergency.
- J. "Family advocate" has the same meaning as provided in Section ~~27-69-102 (5)~~ 26-5-117, C.R.S.
- K. "Family systems navigator" has the same meaning as provided in Section ~~26-5-117-27-69-102 (5.5)~~, C.R.S.
- L. "First-level appeal" means the initial process a Medicaid member is required to enact to contest a benefit, service, or eligibility decision made by Medicaid or a Medicaid managed care entity.
- M. "Licensed Mental Health Professional" means a psychologist licensed pursuant to Section 12-43- 301, ~~et seq.~~, C.R.S., A PSYCHOLOGIST CANDIDATE PURSUANT 12-245-304, C.R.S. THAT IS SUPERVISED BY A LICENSED PSYCHOLOGIST, a psychiatrist licensed pursuant to Section 12-36-101, ~~et seq.~~, C.R.S., a clinical social worker licensed pursuant to Section 12-43-401, ~~et seq.~~, C.R.S., a marriage and family therapist licensed pursuant to Section 12-43-501, ~~et seq.~~, C.R.S. A LICENSED MARRIAGE AND FAMILY THERAPIST CANDIDATE PURSUANT TO 12-245-504, C.R.S., THAT IS SUPERVISED BY A LICENSED MARRIAGE AND FAMILY THERAPIST, a professional counselor licensed pursuant to Section 12-43-601, ~~et seq.~~, C.R.S., A LICENSED PROFESSIONAL COUNSELOR CANDIDATE PURSUANT TO § 12-245-604, C.R.S. THAT IS SUPERVISED BY A LICENSED PROFESSIONAL

COUNSELOR, or a social worker licensed by pursuant to Section 12-43-401, ~~et seq.~~, C.R.S., that is supervised by a licensed clinical social worker.

- N. "Medicaid child or youth who is at risk of out-of-home placement" means a child or youth who is categorically eligible for Medicaid but who otherwise meets the definition of a child or youth who is at risk of out-of-home placement as defined above.
- O. "Mental Health Agency" means a behavioral health services contractor through the State Department of Human Services serving children and youth statewide or in a particular geographic area, including but not limited to BEHAVIORAL HEALTH ENTITIES ~~community mental health centers~~, and with the ability to meet all expectations of ~~(CCR) 502-1, SECTION 21.200.4~~ (CCR) 502-6, CHAPTER 4 and 27-67-101, C.R.S.
- P. "Plan of Care" is a State Department developed document that at a minimum includes the anticipated frequency and costs of services to be provided for the duration of the plan of care. The plan of care is also a schedule of the fees to be paid by the responsible person including, but not limited to, the estimated amount of Supplemental Security Income payable to the residential facility if awarded to the child at risk of out-of-home placement or another provider, and sliding scale fees payable to the contractor, if applicable.
- Q. "Professional person" means a person licensed to practice medicine in this State, a psychologist certified to practice in this State, or a person licensed and in good standing to practice medicine in another state or a psychologist certified to practice and in good standing in another state who is providing medical or clinical services at a treatment facility in this State that is operated by the Armed Forces of the United States, the United States Public Health Service, or the United States Department of Veterans Affairs.
- R. "Residential Treatment" means services provided by a QUALIFIED RESIDENTIAL TREATMENT PROGRAM, AS DEFINED IN 26-5.4-102(2), C.R.S. ~~residential child care facility~~ or psychiatric residential treatment facility, AS DEFINED IN 25.5-4-103(19.5), C.R.S. ~~licensed as a residential child care facility pursuant to Section 26-6-102(8), C.R.S., which has been approved by the State Department to provide mental health treatment.~~
- S. "Responsible Persons" means parent(s) or legal guardian(s) of a minor.
- T. "State Department" means the State Department of Human Services.

#### **4.2 Children and Youth Mental Health Treatment Act Program Description**

The Children and Youth Mental Health Treatment Act allows parents or guardians to apply to a mental health agency on behalf of their minor child for mental health treatment services when the parents or guardians believe ~~his or her~~ THEIR child is at risk for out-of-home placement, as defined in Section 4.1.



- A. For children who are not categorically eligible for Medicaid at the time services are requested, the mental health agency is responsible for clinically assessing the child and providing care management and necessary services that may be clinically appropriate for the child's and family's needs.
- B. The Children and Youth Mental Health Treatment Act provides for an objective third party review by a professional person at the State Department for the responsible person(s) when services are denied or terminated for a Medicaid child or youth who is at risk of out-of-home placement or a child or youth seeking funding under this Act.
- C. The Children and Youth Mental Health Treatment Act resolves disputes between mental health agencies and county departments when a child is seeking or receiving funding through the Child and Youth Mental Health Treatment Act.
- D. The Children and Youth Mental Health Treatment Act authorizes funding for services for children at risk of out-of-home placement, which are not covered by private insurance, Medicaid, or the family.

#### **4.3 Application for Funding From the Children and Youth Mental Health Treatment Act**

- A. A responsible person may apply to a mental health agency on behalf of ~~his or her~~ THEIR minor child for mental health treatment.
- B. At any point in applying for, appealing, or receiving Children and Youth Mental Health Treatment Act funding the responsible person(s) may request the assistance from a family advocate, family system navigator, nonprofit advocacy organization, or county department.
  - 1. The mental health agency shall provide the contact information for the organization contracted with the State Department to provide these services, free of charge, to the responsible person(s) before an initial evaluation.
  - 2. The State Department is not obligated to pay for any services provided by entities with which they do not contract.
- C. The mental health agency shall evaluate the child and clinically assess the child's need for mental health services. When warranted, funding for services will be provided as may be necessary and in the best interests of the child and the child's family.
- D. When completing a ~~face-to-face~~ FACE-TO-FACE clinical assessment for a child or youth, the mental health agency shall use one standardized risk stratification tool. The identification of and manner for which the standardized risk stratification tool will be used will be determined by the State Department and identified in contracts and available on the State Department's website. Determination of the assessment for level of care need and eligibility need will be completed jointly by the mental health agency and the State Department.

- E. When evaluating a child or youth for eligibility, the mental health agency shall evaluate all areas outlined in ~~21-190~~ 2 CCR 502-1-8.4.
- F. The mental health agency shall be responsible for the provision of care management and necessary services, including any community-based mental health treatment, residential treatment, or any services that may be appropriate for the child's or family's needs.
- G. A face-to-face clinical assessment and eligibility determination shall be completed within the following time periods after a request for funding has been made by a responsible person(s).
1. Urgent situation, defined as a condition that is likely to escalate to a situation in which the child may become a danger to themselves or others and require a clinical assessment within THREE (3) BUSINESS DAYS. ~~twenty-four (24) hours.~~ Urgent situation evaluations shall be completed by the mental health agency within (3) BUSINESS DAYS ~~twenty-four (24) hours, one business day,~~ of the initial assessment request by the responsible person(s). The mental health agency shall continue to provide care management while funded services are identified and provided.
  2. Routine situations, defined as all other situations, shall be completed within TEN (10) ~~three (3)~~ business days of the initial assessment request.
  3. If the mental health agency requires additional time to make a decision following an assessment and the responsible person agrees, then the mental health agency may take up to AN ADDITIONAL FIVE (5) BUSINESS DAYS. THE INITIAL EXTENSION MAY BE EXTENDED FOR AN ADDITIONAL FIVE (5) BUSINESS DAYS AT THE REQUEST OF THE RESPONSIBLE PERSON, but THE REQUEST SHOULD TAKE UP TO BUT NO MORE THAN TWENTY (20) BUSINESS DAYS FROM THE INITIAL REQUEST. ~~no more than, fourteen (14) calendar days to provide a decision.~~ If the responsible person does not agree, the notification timelines referenced above remain in effect.
- H. The mental health agency's decision shall be communicated orally and in writing to the responsible person(s) within the time allowed for the completion of the evaluation or at least five (5) business days before the reduction, increase or termination of funded services. Oral notice shall be face-to-face with the responsible person when possible.
- I. The written decision shall contain the following:
1. Notice of the applicable criteria for mental health treatment;
  2. The factual basis for the decision;
  3. The appeals procedures pursuant to the grievance requirements in 2 CCR 502-1-21.180;
  4. If approved, notice that the responsible person(s) may choose to seek services

from the provider of their choice, including but not limited to the mental health agency.

5. Notice that the responsible person(s) may request assistance from a family advocate, family system navigator, nonprofit advocacy organization, or county department in applying for, receiving, or appealing Children and Youth Mental Health Treatment Act funding and applying for supplemental security income;
6. The contact information for an organization contracted by the State Department to perform family advocacy or family system navigation;
7. Notice that the contracted advocacy provider is not allowed to charge the family a fee;
8. Notice that the contracted advocacy provider is not allowed to charge the family a fee;
9. A statement for the responsible person to sign, indicating that they agree with the decision or that they disagree and wish to file an appeal.

#### **4.4 Process of Determining Ability to Pay and Adjusted Charge for Treatment Services**

- A. The mental health agency shall determine the cost of care for children and youth that receive funding through the Children and Youth Mental Health Treatment Act. All insurance and other eligible benefits shall be applied first to the cost of care. A responsible person(s) who fails to cooperate in making existing insurance and other benefits available for payment will nevertheless be considered as having benefits available for payment;
- B. Per month, the mental health agency shall determine the 7% of the total cost of all Children and Youth Mental Health Treatment Act funded services for the responsible person, excluding the costs of the initial assessment and all care management;
- C. If the responsible person(s) is unable to pay the 7%, the mental health agency shall consider the responsible person(s) "ABILITY TO PAY" AS DEFINED IN SECTION 4.1, total number of dependents, the mental health needs of those dependents, all current outstanding medical liabilities, expected length of services, and the education costs for the dependents. The mental health agency shall receive approval or denial from the State Department for all fee adjustments;
- D. At minimum, the parental fee shall be no less than \$50 per calendar month;
- E. Per calendar month, the mental health agency shall collect fees directly from the responsible person(s), or monitor that the third-party provider has collected the parental fee;
- F. The funded provider may reserve the right to take any necessary action regarding

delinquent payments by the responsible person(s);

- G. The responsible person(s) shall sign a financial agreement indicating an understanding of their financial responsibilities as described, above, to be eligible for funding through the Children and Youth Mental Health Treatment Act;
- H. Within ten (10) business days after the child's admission to residential treatment, the responsible person(s) shall apply for Supplemental Security Income (SSI) on behalf of a child approved for funding under the Children and Youth Mental Health Treatment Act;
- I. If awarded Supplemental Security Income; the responsible person(s) shall disclose the award amount to the mental health agency as determined by the Social Security Administration regulations;
- J. If awarded Supplemental Security Income, it is the responsibility of the responsible person(s) to notify the Social Security Administration immediately upon the child or youth's discharge from residential services;
- K. If awarded Supplemental Security Income, and awarded Medicaid, Medicaid will be used to fund treatment costs while in residential treatment. The parental fee, Supplemental Security Income, all other funding sources, and the Child and Youth Mental Health Treatment Act will fund room and board;
- L. If denied Supplemental Security Income; the Children and Youth Mental Health Treatment Act will fund room and board and behavioral health treatment services that would otherwise have been funded by Supplemental Security Income and Medicaid.

#### **4.5 Appeal of the Reduction, Termination, or Denial of Mental Health Services Funded By the Children and Youth Mental Health Treatment Act**

- A. Except as provided below, the mental health agency shall follow the formalized notification process as defined in Section ~~21-200.41~~ 4.1 through 4.3 ~~21-200.43~~.
- B. A responsible person(s) may request an appeal of a decrease, increase, or denial of Children and Youth Mental Health Treatment Act fund services or a recommendation that a child OR YOUTH is discharged from funded services, and the following shall apply:
  - 1. If the responsible person(s) notifies the mental health agency of a desire to appeal a decision before termination of services, the State Department and the mental health agency shall continue to fund services until the appeal process below has been exhausted.
  - 2. The responsible person(s) shall notify the mental health agency orally or in writing within fifteen (15) business days of notice of action of a desire to appeal a decision;

3. The mental health agency shall have two (2) business days within which to complete an internal appeal review process and communicate a decision to the responsible person(s) orally and in writing.
  4. The mental health agency's notice of action shall contain the information required in section ~~21-200-43~~, 4.3 (E), along with the process for clinical review in Section ~~21-200-45~~, 4.5 C-E below.
- C. If the mental health agency requires more than two (2) business days to complete the internal review, and the responsible person(s) is in agreement, then the mental health agency may take up to but no more than five (5) business days to complete the review.
- D. Within five (5) business days after the mental health agency's final denial or reduction of requested services or recommendation that the child be discharged from treatment, the responsible person(s) may request a clinical review of the need for services by an objective third party, at the State Department, who is an independent professional person as that term is defined in Section 27-65-102(2744), C.R.S., to review the action of the mental health agency. Such a request may be oral or in writing, but if completed orally it must be confirmed in writing, and shall be made to the Director of ~~the Office of Behavioral Health~~ BEHAVIORAL HEALTH ADMINISTRATION or the Office's OMBUDSMAN ~~consumer and family affairs specialist~~.
- E. Unless waived by the responsible person(s), said clinical review shall include:
1. A review of the mental health agency's denial of services;
  2. A ~~face-to-face~~ FACE-TO-FACE evaluation of the child, DONE EITHER PHYSICALLY IN THE SAME ROOM AS THE PROFESSIONAL PERSON OR INTERVIEWED REMOTELY USING VIDEO TECHNOLOGY ~~so long as the responsible person(s) arranges transportation of the child for the evaluation~~; and,
  3. A review of the evidence provided by the responsible person(s). The responsible person(s) shall be advised of the name and credentials of the reviewing professional, as well as any mental health agency affiliations of the reviewing professional. The responsible person(s) shall have an opportunity to request an alternate reviewing professional at the State Department at that time, so long as any delay caused by the request is waived by the responsible person(s) as described below.
- F. Within three (3) business days of the receipt of the request for clinical review, a decision shall be communicated orally and in writing by the professional person to the responsible person(s), state Department, and the mental health agency. The written decision shall include the relevant criteria and factual basis. If the clinical review finds residential or community-based services to be necessary and that Children and Youth Mental Health Treatment Act funding is necessary, the mental health agency shall provide services to the child within twenty-four (24) hours of the said decision. IF COMMUNITY-BASED SERVICES ARE NOT AVAILABLE WITHIN

TWENTY-FOUR HOURS AND COMMUNITY-BASED SERVICES ARE RECOMMENDED, THE STATE LEVEL REVIEW MUST RECOMMEND APPROPRIATE ALTERNATIVES, UP TO AND INCLUDING EMERGENCY HOSPITALIZATION IF APPROPRIATE. If residential treatment is not available within twenty-four hours and placement in residential treatment is recommended, the state level review must recommend appropriate alternatives including emergency hospitalization, if appropriate, if the child is in need of immediate placement out of the home.

- G. If the professional person requires more than three (3) business days to complete the clinical review, or if the responsible person(s) requires more time to obtain evidence for the clinical review, the responsible person(s) may waive the three day deadline above, so long as said waiver is confirmed in writing. In any event, the ~~face to face~~ FACE-TO-FACE evaluation and the clinical review shall be completed within six (6) business days.
- H. The decision from the objective third party, at the State Department, who is A ~~an independent~~ professional person, shall constitute final agency action for funding through the Children and Youth Mental Health Treatment Act.

#### **4.6 Third Party Review Process for a Medicaid Child or Youth**

~~A Medicaid child or youth,~~ A responsible person may request an objective third party clinical review FOR A MEDICAID CHILD OR YOUTH within five (5) business days after all first-level Medicaid appeals processes are exhausted (in accordance with Section 8.057 or 8.209 of the Colorado Department of Health Care Policy and Financing's Medical Assistance Rules [10 CCR 2505-10]). The review must be conducted by a professional person as outlined in Section ~~24-200-45~~ 4.5 within three (3) business days of the date of request. This review does not obligate funding of services.

#### **4.7 Dispute Resolution Process between County Departments and Mental Health Agencies**

- A. If a dispute exists between a mental health agency and a county department regarding whether mental health services should be funded under the Children and Youth Mental Health Treatment Act or by the county department, one or both may request the State Department's ~~Office of Behavioral Health~~ BEHAVIORAL HEALTH ADMINISTRATION, to convene a review panel consisting of family advocates, the State Department's Division of Child Welfare, the State Department's BEHAVIORAL HEALTH ADMINISTRATION ~~Office of Behavioral Health~~, an independent mental health agency if available, ~~an independent~~ A professional person, and an independent county department to provide dispute resolution. The State Department's BEHAVIORAL HEALTH ADMINISTRATION ~~Office of Behavioral Health~~ shall obtain documentation from independent agencies and individuals that no conflict of interest exists pertaining to the specific child being reviewed.

- B. The request to invoke the dispute resolution process shall be in writing and submitted within five (5) calendar days of either agency recognizing a dispute exists.
- C. The written request for dispute resolution shall include, at a minimum, the following information:
  - 1. The county department and mental health agency involved in the dispute, including a contact person at each;
  - 2. The child's name and age;
  - 3. The responsible person(s) address, phone number, and e-mail address;
  - 4. Pertinent information regarding the child including, but not limited to, medical or mental health status/assessment;
  - 5. The reason for the dispute, any efforts to resolve the matter locally, and any pertinent information regarding the child;
  - 6. Information about the child's mental health status pertaining to the dispute; and,
  - 7. The responsible person(s) perspective on the matter, if known.
- D. The State Department's BEHAVIORAL HEALTH ADMINISTRATION ~~Office of Behavioral Health~~ shall provide notice to both the mental health agency and a county department that the State Department's BEHAVIORAL HEALTH ADMINISTRATION ~~Office of Behavioral Health~~ will convene a review panel to resolve the dispute in writing.
- E. Each side will have an opportunity to present its position to the review panel. Interested parties will be allowed to present written or oral testimony at the discretion of the review panel.
- F. The review panel shall have five (5) business days to complete the dispute process and issue its determination in writing to the disputing agencies and the responsible person(s). The review panel's decision shall constitute final agency action, which binds the agency determined responsible for the provision of necessary services.
- G. If the panel deems that neither the mental health agency nor the county department is responsible for the provision of funding for the treatment of the child, then the panel shall provide a rationale for their determination. The panel shall offer recommendations for other funding sources and treatment modalities.

#### **4.8 Responsibilities**

##### **4.8.1 Responsibilities of Mental Health Agencies**

The mental health agency shall provide Children and Youth Mental Health Treatment Act funded services to Children and youth who are eligible as defined in CHAPTER 4

~~Sections 21-200-4.~~

- A. Children and Youth Mental Health Treatment Act services include, but are not limited to:
  - 1. Clinical behavioral health assessments completed by a licensed mental health professional;
  - 2. Community-based services;
  - 3. Care management services;
  - 4. Coordination of residential treatment services; and,
  - 5. Non-residential mental health transition services for children and youth.
- B. The mental health agency shall provide to the State Department necessary Children and Youth Mental Health Treatment Act eligibility, service, and financial information in an agreed upon format.
- C. The mental health agency shall submit data to the State Department as required per Section-27-67-105, C.R.S.
- D. The mental health agency shall provide or coordinate treatment services in collaboration with the child or youth, families, and funded service providers.
- E. The mental health agency shall determine the fee for the responsible person(s) and submit the financial agreement to the State Department once signed by the responsible person(s) before state approval.
- F. The mental health agency shall submit all eligibility assessments to the State Department before funding approval or denial.
- G. If a child has been determined eligible under the Children and Youth Mental Health Treatment Act, the mental health agency shall submit a plan of care for approval to the State Department before providing services. If necessary services are not immediately available, mental health agency shall submit an alternative plan of care and provide interim services as appropriate.
- H. The mental health agency shall maintain a comprehensive clinical record for each child receiving services through Children and Youth Mental Health Treatment Act funding consistent with 2 CCR 502-1. Such records shall be made available for review by the State Department. The individualized service plan in the clinical record shall reflect any services provided directly by the center, including any care management services provided and relevant documentation submitted by a third-party provider. The goal of those care management services may be, at least in part, to oversee the delivery of services by third party providers to assure that adequate progress is achieved and may reference the state plan of care and the provider's clinical service plan.

**4.8.2 Responsibilities of the Department**



The State Department shall be responsible for administering and regulating the provisions of the Children and Youth Mental Health Treatment Act. The responsibilities of the State Department include:

- A. Ensuring the Children and Youth Mental Health Treatment Act is implemented statewide;
- B. Reviewing requests for funding and making determinations regarding approval of funded services;
- C. The provision of technical assistance to mental health agencies, residential treatment providers, families, advocacy organizations, county departments, mental health providers, and other stakeholders regarding the technical and financial aspects of the Children and Youth Mental Health Treatment Act;
- D. Oversight and monitoring of service delivery for children receiving Children and Youth Mental Health Treatment Act funded services;
- E. Oversight of the appropriateness of funded services, service standards, and service expectations of ~~Child~~ CHILDREN and Youth Mental Health Treatment Act funded services;
- F. Development and maintenance of the appeal process;
- G. Development and maintenance of dispute resolution processes;
- H. Management of the fiscal aspects of the Children and Youth Mental Health Treatment Act program;
- I. Data Collection and public reporting.

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## **CHAPTER 5: ADDICTION COUNSELOR CERTIFICATION AND LICENSURE**

### **5.1 STATUTORY AUTHORITY AND APPLICABILITY**

- A. Authority to establish the educational requirements necessary for an individual to pursue licensure or certification as an addiction counselor pursuant to Part 8 of Article 245 of Title 12, C.R.S. is provided by Sections 12-245-804(3), C.R.S. and 27-80-108(1)(e), C.R.S.
- B. The Department of Regulatory Agencies' State Board of Addiction Counselor Examiners created pursuant to Section 12-245-802, C.R.S. is the entity responsible for issuing a license as an addiction counselor (LAC), a certification as an addiction specialist (CAS) or a certification as an addiction technician (CAT) granted an applicant meets all applicable statutory and regulatory requirements, including the regulatory standards established in section 21.330.

### **5.2 DEFINITIONS**

- A. “CAS” for the purpose of this section means a Certified Addiction Specialist.
- B. “CAT” for the purpose of this section means a Certified Addiction Technician.
- C. “DORA” means the Department of Regulatory Agencies.
- D. “LAC” means a Licensed Addiction Counselor.

### **5.3 COURSE WORK AND TRAINING REQUIREMENTS FOR INDIVIDUALS PURSUING AN ADDICTION COUNSELOR CREDENTIAL**

#### **5.3.1 Addiction Counseling Course Work and Training**

- A. In addition to the statutory requirement listed in Section 12-245-804(3.5)(a), C.R.S., an individual must complete nine (9) individual courses or trainings to be eligible for certification as an addiction technician (CAT). CAT courses or trainings shall address:
  - 1. General counseling theories;
  - 2. Treatment methods; and,
  - 3. Addiction counselor competencies.
- B. In addition to the statutory requirement listed in Section 12-245-804(3.5)(b), C.R.S., an individual must complete twenty (20) individual courses or trainings, which includes the nine (9) CAT trainings required pursuant to 21.330.31(a), to be eligible for certification as an addiction specialist (CAS). CAS courses or trainings shall address:
  - 1. General counseling theories;
  - 2. Treatment methods;
  - 3. Infectious diseases and substance use/misuse;
  - 4. Addiction counselor competencies; and,
  - 5. Clinical supervision.
- C. In addition to the statutory requirement listed in Section 12-245-804(1), C.R.S., an individual must complete seven (7) individual courses or trainings to be eligible for licensure as an addiction counselor (LAC). LAC courses or trainings shall address:
  - 1. General counseling theories;
  - 2. Treatment methods;
  - 3. Infectious diseases and substance use/misuse;
  - 4. Addiction counselor professional ethics; and,
  - 5. Clinical supervision.

### **5.3.2 Completion of Addiction Counseling Course Work and Training**

- A. Addiction counseling course work and training must be completed through an addiction counselor clinical training program approved by the Department pursuant to Section 27-80-108(1), C.R.S.
- B. Course work and training competency may also be obtained through academic educational equivalency.
  - 1. An individual pursuing academic educational equivalency must demonstrate proficiency in each of the addiction counseling course work and trainings established in Section 21.330.31.
  - 2. Academic educational equivalency may be accomplished by successful completion of equivalent department required course work and trainings, obtained from accredited institutions of higher education.
  - 3. Courses in the behavioral health sciences obtained from accredited institutions of higher education equivalent to the department-required training shall be demonstrated through official transcripts and syllabi and/or course descriptions.

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