THIS PAGE NOT FOR PUBLICATION

Title of Rule:	Revision to the Medical Assistance Rule Concerning Limitations on Reimbursement of Non-Medical Transportation Services for HCBS Waiver Services, §8.494
Rule Number:	MSB 09-10-26-A
Division / Contact / Phone:	Long Term Benefits / Michelle Halvorson / x 3832

SECRETARY OF STATE
RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Name: Health Care Policy and Financing / Medical Services Board
2. Title of Rule: MSB 09-10-26-A, Revision to the Medical Assistance Rule Concerning Limitations on Reimbursement of Non-Medical Transportation Services for HCBS Waiver Services, §8.494
3. This action is an adoption of: an amendment
4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):

   Sections(s) 8.494, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
5. Does this action involve any temporary or emergency rule(s)? No
   If yes, state effective date:
   Is rule to be made permanent? (If yes, please attach notice of hearing).

PUBLICATION INSTRUCTIONS*

Please insert new paragraph provided at §8.494.50.55 immediately following current text at §8.494.50.54. This change is effective January 30, 2010.

THIS PAGE NOT FOR PUBLICATION

Title of Rule:	Revision to the Medical Assistance Rule Concerning Limitations on Reimbursement of Non-Medical Transportation Services for HCBS Waiver Services, §8.494
Rule Number:	MSB 09-10-26-A
Division / Contact / Phone:	Long Term Benefits / Michelle Halvorson / x 3832

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

   In response to the State of Colorado's current fiscal crises, limits to Home and Community Based Waiver for Non-Medical Transportation will be implemented in order to offset the state budget shortfall. 10 CCCR, 2505-10 Section 8.494 will be revised to limit annual authorization of Non-Medical Transportation under Home and Community Based Services to an equivalent of 2 Round Trips per week, allowing for client flexibility in managing within that annual limitation.

2. An emergency rule-making is imperatively necessary

   ☐ to comply with state or federal law or federal regulation and/or

   ☐ for the preservation of public health, safety and welfare.

   Explain:

3. Federal authority for the Rule, if any:

4. State Authority for the Rule:

   25.5-1-301 through 25.5-1-303, C.R.S. (2009);

Initial Review — Final Adoption **12/11/2009**

Proposed Effective Date **01/30/2010** — Emergency Adoption

DOCUMENT # 02

THIS PAGE NOT FOR PUBLICATION

Title of Rule:	Revision to the Medical Assistance Rule Concerning Limitations on Reimbursement of Non-Medical Transportation Services for HCBS Waiver Services, §8.494
Rule Number:	MSB 09-10-26-A
Division / Contact / Phone:	Long Term Benefits / Michelle Halvorson / x 3832

REGULATORY ANALYSIS

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

   Home and Community Based Services waiver clients who use more than the equivalent of two (2) round trips per week on a regular and sustained basis.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

   This rule revision limits Non-Medical Transportation to the equivalent of two (2) round trips per week per person or 104 per annual certification period, not including transportation to and from HCBS Adult Day services.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

   This limit in Non-Medical Transportation under HCBS will result in a savings of approximately $482,219 in SFY 09-10 and $751,233 in SFY 10-11 for this service.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

   If this limitation is not put into effect, the potential savings to the State Budget will not occur.

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

   There are no less costly methods to achieve the purpose of this rule revision.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

   During this current fiscal crisis many alternative methods for reducing the State of Colorado expenditures have been explored. This is one of many methods chosen by the Governor to be implemented.

8.494 NON-MEDICAL TRANSPORTATION

8.494.50 LIMITATIONS AND REIMBURSEMENT

.51 Reimbursement for non-medical transportation shall be the lower of billed charges or the prior authorized unit cost at a rate not to exceed the cost of providing medical transportation services.

.52 A provider's submitted charges shall not exceed those normally charged to 'the general public, other public or private organizations, or non-subsidized rates negotiated with other governmental entities.

.53 No payment shall be made for charges when the recipient is not actually in the vehicle.

.54 Effective 2/1/99, there shall be no reimbursement under this section for non-medical transportation services provided to clients residing in uncertified congregate facilities. Case managers may submit a written request to the Department for a waiver not to exceed six months for clients receiving services in uncertified congregate facilities prior to the effective date of this rule. After that time, services shall be discontinued.

.55 Effective 12/01/2009, excluding transportation to HCBS Adult Day facilities, a client may not receive more than the equivalent of two (2) round trip services per week, or 104 round trip services per annual certification period utilizing NMT, unless otherwise authorized by the Department.

THIS PAGE NOT FOR PUBLICATION

Title of Rule:	Revision to the Medical Assistance Rule for Outpatient Hospital Reimbursement
Rule Number:	MSB 09-10-29-A
Division / Contact / Phone:	Rates / Jessica McKeen / 3858

SECRETARY OF STATE
RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Name: Health Care Policy and Financing / Medical Services Board
2. Title of Rule: MSB 09-10-29-A, Revision to the Medical Assistance Rule for Outpatient Hospital Reimbursement
3. This action is an adoption of: an amendment
4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):

   Sections(s) 8.300.6, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
5. Does this action involve any temporary or emergency rule(s)? No
   If yes, state effective date:
   Is rule to be made permanent? (If yes, please attach notice of hearing).

PUBLICATION INSTRUCTIONS*

Please insert new paragraph provided directly after 8.300.6.A.1 second paragraph and directly before §8.200.6.A.2. This change is effective January, 30, 2010. (An emergency rule was filed in November for the Jan 1 effective date. This rule makes that change permanent.)

*to be completed by MSB Board Coordinator

THIS PAGE NOT FOR PUBLICATION

Title of Rule:	Revision to the Medical Assistance Rule for Outpatient Hospital Reimbursement
Rule Number:	MSB 09-10-29-A
Division / Contact / Phone:	Rates / Jessica McKeen / 3858

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

   The proposed rule change will reduce reimbursement to hospitals for outpatient services from 70.9 percent of cost to 70 percent of cost.

2. An emergency rule-making is imperatively necessary

   ☐ to comply with state or federal law or federal regulation and/or

   ☐ for the preservation of public health, safety and welfare.

   Explain:

3. Federal authority for the Rule, if any:

   Social Security Act, Section 1902(a)(30)(A)

4. State Authority for the Rule:

   25.5-1-301 through 25.5-1-303, C.R.S. (2009);
   24-4-103(6), C.R.S., (2008)

Initial Review — Final Adoption **12/11/2009**

Proposed Effective Date **01/30/2010** — Emergency Adoption

DOCUMENT #03

THIS PAGE NOT FOR PUBLICATION

Title of Rule:	Revision to the Medical Assistance Rule for Outpatient Hospital Reimbursement
Rule Number:	MSB 09-10-29-A
Division / Contact / Phone:	Rates / Jessica McKeen / 3858

REGULATORY ANALYSIS

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

   Hospitals in Colorado will receive reduced reimbursement for outpatient hospital services

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

   Reimbursement to hospitals for outpatient services is estimated to be additionally reduced by $827,149 for FY 09-10.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

   None

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

   The benefit of the proposed rule revision is a reduction in outpatient hospital expenditures, which will help offset the projected state budget shortfall and allow the Department to provide outpatient hospital benefits without significant changes in coverage. The cost is that hospitals may receive less reimbursement for outpatient treatment. If the Department does not reduce expenditures and help offset the state budget shortfall, the outpatient hospital benefit and/or other Medicaid benefits may have to be reduced significantly.

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

   The targeted reduction of provider reimbursement rates, including those for outpatient hospital services, is one of the most effective means to reduce expenditures given the size of the forecasted state budget shortfall and the urgency in which the shortfall must be offset.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

   The Department is taking many steps to reduce expenditures, including other targeted provider rate reductions

8.300.6 Payments For Outpatient Hospital Services

8.300.6.A Payments to DRG Hospitals for Outpatient Services

1. Payments to In-Network Colorado DRG Hospitals

Excluding items that are reimbursed according to the Department's fee schedule, Outpatient Hospital Services are reimbursed on an interim basis at actual billed charges multiplied by the Medicare cost-to-charge ratio less 28%. When the Department determines that the Medicare cost-to-charge ratio is not representative of a Hospital's Outpatient costs, the cost-to-charge ratio may be calculated using historical data. A periodic cost audit is done and any necessary retrospective adjustment is made to bring reimbursement to the lower of actual audited Medicaid cost less 28% or billed charges less 28%.

Effective September 1, 2009, Outpatient Hospital Services are reimbursed on an interim basis at actual billed charges times the Medicare cost-to-charge ratio less 29.1 percent (29.1%). When the Department determines that the Medicare cost-to-charge ratio is not representative of a hospital's outpatient costs, the cost-to-charge ratio may be calculated using historical data. A periodic cost audit is done and any necessary retrospective adjustment is made to bring reimbursement to the lower of actual audited cost less 29.1 percent (29.1%) or billed charges less 29.1 percent (29.1%).

Effective January 1, 2010, Outpatient Hospital Services are reimbursed on an interim basis at actual billed charges times the Medicare cost-to-charge ratio less 30 percent (30%). When the Department determines that the Medicare cost-to-charge ratio is not representative of a hospital's outpatient costs, the cost-to-charge ratio may be calculated using historical data. A periodic cost audit is done and any necessary retrospective adjustment is made to bring reimbursement to the lower of actual audited cost less 30 percent (30%) or billed charges less 30 percent (30%).

2. Payments to Out-of-Network DRG Hospitals

Excluding items that are reimbursed according to the Department's fee schedule, border-state Hospitals and out-of-network Hospitals, including out-of-state Hospitals, shall be paid 30% of billed charges for Outpatient Hospital Services. Consideration of additional reimbursement shall be made on a case-by-case basis in accordance with supporting documentation submitted by the Hospital.

THIS PAGE NOT FOR PUBLICATION

Title of Rule:	Revision to the Medical Assistance Rule Concerning Durable Medical Equipment and Medical Supplies, §8.590
Rule Number:	MSB 09-10-29-B.
Division / Contact / Phone:	Medicaid Program / Doug van Hee / 4986

SECRETARY OF STATE
RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Name: Health Care Policy and Financing / Medical Services Board
2. Title of Rule: MSB 09-10-29-B., Revision to the Medical Assistance Rule Concerning Durable Medical Equipment and Medical Supplies, §8.590
3. This action is an adoption of: an amendment
4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):

   Sections(s) 8.590, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
5. Does this action involve any temporary or emergency rule(s)? No
   If yes, state effective date:
   Is rule to be made permanent? (If yes, please attach notice of hearing).

PUBLICATION INSTRUCTIONS*

Please replace current text at §8.590.7.I.2 and §8.590.7.I.3 with the new text provided. This change is effective 01/30/2010.

*to be completed by MSB Board Coordinator

THIS PAGE NOT FOR PUBLICATION

Title of Rule:	Revision to the Medical Assistance Rule Concerning Durable Medical Equipment and Medical Supplies, §8.590
Rule Number:	MSB 09-10-29-B.
Division / Contact / Phone:	Medicaid Program / Doug van Hee / 4986

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

   The proposed rule change will reduce reimbursement rates for durable medical equipment and supplies that are paid from fee schedule, invoiced costs or from manufacture suggested retail prices.

2. An emergency rule-making is imperatively necessary

   ☐ to comply with state or federal law or federal regulation and/or

   ☐ for the preservation of public health, safety and welfare.

   Explain:

   .

3. Federal authority for the Rule, if any:

   Social Security Act, Section, 1902(a)(30)(A)
   42 CFR 440.70

4. State Authority for the Rule:

   25.5-1-301 through 25.5-1-303, C.R.S. (2009);
   25.5-5-4-416 C.R.S. (2009)

Initial Review — Final Adoption **12/11/2009**

Proposed Effective Date **01/30/2010** — Emergency Adoption

DOCUMENT #04

THIS PAGE NOT FOR PUBLICATION

Title of Rule:	Revision to the Medical Assistance Rule Concerning Durable Medical Equipment and Medical Supplies, §8.590
Rule Number:	MSB 09-10-29-B.
Division / Contact / Phone:	Medicaid Program / Doug van Hee / 4986

REGULATORY ANALYSIS

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

   Durable medical equipment and disposable medical supply providers will receive less reimbursement for services provided.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

   Total fund reduction for durable medical equipment and supplies for FY 2009-10 is $413,902.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

   None

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

The benefit of the proposed rule revision is a reduction in durable medical equipment and supply expenditure, which will help offset the projected state budget shortfall and allow the Department to provide benefits without significant change in coverage. The cost is that providers will receive less reimbursement. If the Department does not reduce expenditures and help offset the state budget shortfall, the durable medical equipment and supply benefit and/or other Medicaid benefits may have to be reduced significantly.

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

   The targeted reduction of provider reimbursement rates is one of the most effective means to reduce expenditures given the size of the forecasted state budget shortfall and the urgency in which the shortfall must be offset.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

   The Department is taking many steps to achieve program efficiencies to reduce expenditures, including other targeted provider rate reductions and defining benefits to identify the amount, scope and duration of the each benefit.

8.590 DURABLE MEDICAL EQUIPMENT AND DISPOSABLE MEDICAL SUPPLIES

8.590.7.I. Reimbursement rate for a purchased item shall be as follows:

1. Fee Schedule items, with a HCPC or CPT code, that have a maximum allowable reimbursement rate shall be reimbursed at the lesser of submitted charges or the department fee schedule.

2. Manually priced items that have no maximum allowable reimbursement rate assigned, but have a Manufacture Suggested Retail Price (MSRP) shall be reimbursed the MSRP less ~~20.82~~ 21.61 percent.

3. Manually priced items that have no maximum allowable reimbursement rate assigned, nor a MSRP shall be reimbursed at the lesser of the submitted charges or the sum of the manufacturers invoice cost, plus ~~15.87~~ 14.71 percent.

THIS PAGE NOT FOR PUBLICATION

Title of Rule:	Revision to the Medical Assistance Rule Concerning Ambulatory Surgery Centers, § 8.570
Rule Number:	MSB 09-10-30-A
Division / Contact / Phone:	Medicaid Program Division / Eric Wolf / 303-866-5963

SECRETARY OF STATE
RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Name: Health Care Policy and Financing / Medical Services Board
2. Title of Rule: MSB Revision to the Medical Assistance Rule Concerning Ambulatory Surgery Centers, § 8.570
3. This action is an adoption of: an amendment
4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):

   Sections(s) Section 8.570, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
5. Does this action involve any temporary or emergency rule(s)? No
   If yes, state effective date:
   Is rule to be made permanent? (If yes, please attach notice of hearing).

PUBLICATION INSTRUCTIONS*

Please change the current reimbursement rate of 77.22% to the new rate of 76.45% at §8.570.6.B. This change is effective 01/30/2010

*to be completed by MSB Board Coordinator

THIS PAGE NOT FOR PUBLICATION

Title of Rule:	Revision to the Medical Assistance Rule Concerning Ambulatory Surgery Centers, § 8.570
Rule Number:	MSB 09-10-30-A
Division / Contact / Phone:	Medicaid Program Division / Eric Wolf / 303-866-5963

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

   Specifies changes in reimbursement rates.

2. An emergency rule-making is imperatively necessary

   ☐ to comply with state or federal law or federal regulation and/or

   ☐ for the preservation of public health, safety and welfare.

   Explain:

3. Federal authority for the Rule, if any:

   Social Security Act Section 1902 (a) 30 (A) and 42 CFR Section 416.125

4. State Authority for the Rule:

   25.5-1-301 through 25.5-1-303, C.R.S. (2009);
   24-4-103(6), CRS (2009)

Initial Review		Final Adoption	**12/11/2009**
Proposed Effective Date	**01/30/2010**	Emergency Adoption	

DOCUMENT #05

THIS PAGE NOT FOR PUBLICATION

Title of Rule:	Revision to the Medical Assistance Rule Concerning Ambulatory Surgery Centers, § 8.570
Rule Number:	MSB 09-10-30-A
Division / Contact / Phone:	Medicaid Program Division / Eric Wolf / 303-866-5963

REGULATORY ANALYSIS

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

   Ambulatory surgical centers will receive lowered reimbursement from the Medicaid program.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

   The savings from this change are part of the estimated $827,149 reduction to outpatient hospital services.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

   None.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

   The cost of this proposed rule revision is that ambulatory surgical centers will receive less reimbursement for their services. The benefit of the proposed rule revision is a reduction in ambulatory surgical center expenditures, which will help offset the projected state budget shortfall and allow the Department to provide ambulatory surgical benefits without significant changes in coverage. If the Department does not reduce expenditures and help offset the state budget shortfall, the ambulatory surgery benefit or other benefits may have to be reduced significantly.

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

   The targeted reduction of provider reimbursement rates, including those for ambulatory surgical centers, is one of the most effective means of reducing expenditures given the size of the forecasted state budget shortfall and the urgency with which it must be offset.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

   The Department is taking many steps to reduce expenditures, including other targeted provider rate reductions.

8.570.6 REIMBURSEMENT

8.570.6.A For payment purposes, ASC surgical procedures are grouped into nine categories. The Health Care Procedural Coding System (HCPCS) is used to identify surgical services.

8.570.6.B Reimbursement for approved surgical procedures shall be allowed only for the primary or most complex procedure. No reimbursement is allowed for multiple or subsequent procedures. Approved surgical procedures identified in one of the nine ASC groupers shall be reimbursed a facility fee at the lower of billed charges or 76.45% ~~77.22%~~ of the 2007 Medicare-assigned rate. No reimbursement shall be allowed for services not included on the Department approved list for covered services.