COLORADO DEPARTMENT OF REGULATORY AGENCIES
OFFICE OF POLICY AND RESEARCH

HOME HEALTH SERVICES PILOT PROGRAM ADVISORY COMMITTEE

MAGNET SCHOOL PLANNING BOARD

ADVISORY COMMITTEE ON RIVER OUTFITTER REGULATIONS

QUALITY OF CARE INCENTIVE PAYMENT PROGRAM ADVISORY COMMITTEE

1999 SUNSET REVIEW

October 15, 1999

Members of the Colorado General Assembly
c/o the Office of Legislative Legal Services
State Capitol Building
Denver, Colorado 80203

Dear Members of the General Assembly:

The Colorado Department of Regulatory Agencies has completed the evaluation of:

- the Home Health Services Pilot Program Advisory Committee;
- the Magnet School Planning Board;
- the Advisory Committee on River Outfitter Regulations; and
- the Quality of Care Incentive Payment Program Advisory Committee.

I am pleased to submit this written report, which will be the basis for my office's oral testimony before the 2000 legislative committees of reference. The report is submitted pursuant to §2-3-1203, of the Colorado Revised Statutes, which states in part:

> *The department of regulatory agencies shall conduct an analysis and evaluation of the performance of each division, board or agency or each function scheduled for termination under this section.*
>
> *The department of regulatory agencies shall submit a report containing such analysis and evaluation to the office of legislative legal services no later than October 15 of the year preceding the date established for termination.*

The report discusses the question of whether there is a need for the continuation of these advisory committees and the effectiveness of the committees in carrying out the intention of the statutes.

Sincerely,

M. Michael Cooke
Executive Director

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Home Health Services Pilot Program Advisory Committee

CREATION, MISSION AND COMPOSITION

During the 1994 legislative session, the Colorado General Assembly approved an amendment to the State's Medicaid Omnibus Bill (SB 94-091). Senate Bill 94-091 directed the Department of Health Care Policy and Financing (HCPF) to conduct a pilot program to determine the feasibility and cost-effectiveness of modifying and expanding home health care services for persons with disabilities.

Present Medicaid regulations CFR 440.70(a)(1) and 440.170(f) forbid the provision of home health care services outside the home or institution other than for a trip for medical diagnosis and treatment. Clients, client advocates, and policy makers were frustrated by the restrictions imposed by federal Medicaid regulations that prevent Medicaid certified home health agency services from being provided where the client needs the service. Several Medicaid clients with chronic conditions requiring continuous care seek opportunities in training, education, and other circumstances to enhance their quality of life. Removal of this boundary and a restructuring of the service delivery and payment mechanisms allow clients to receive services outside their homes and support a more independent lifestyle.

The concept for the pilot program was developed by Atlantis-ADAPT and was called the "Independent Living Model". Atlantis is a home health care agency for the disabled, run by the disabled. ADAPT (American Disabled for Attendant Programs Today) is a national advocacy organization for the disabled formed by individuals from Atlantis. The "Independent Living Model" is designed to give persons with disabilities the freedom and flexibility they need to reach their full potential: socially, personally, and financially.

The Colorado General Assembly, with the support of HCPF, ADAPT, the Colorado Association of Home Health Agencies, and the Colorado Nurses' Association, added a provision to the Medicaid Omnibus Bill of 1994 (§26-4-529, C.R.S.). This provision requires HCPF to conduct a pilot program to determine the feasibility and cost-effectiveness of using trained home health aides to provide specific nursing services to the following: medical assistance recipients in the recipient's own residence; any other residence, other than a nursing facility, hospital or intermediate care facility; or other sites including, but not limited to schools, work sites, or day treatment centers.

Participation by clients is voluntary. The legislation further requires that HCPF appoint an advisory committee to develop and implement the pilot program with sufficient input from persons affected by the program.

The Home Health Services Pilot Program Advisory Committee (Committee) was formed in September 1994 to advise HCPF on the development and implementation of the pilot program. The Committee appointed by the executive director of HCPF is comprised of nine members representing the following populations:

- advocacy groups representing persons with disabilities and the frail elderly
  (representatives: Atlantis Community; Denver Commission for Persons With Disabilities)

- medical assistance recipients who receive nursing services
  (representative: consumer member of Atlantis Community)

- home health agency providers association
  (representative: Welcome Homecare)

- professional nurses' association
  (representative: Visiting Nurse Association of Denver)

- State Board of Nursing
  (representative: board member of the State Board of Nursing)

- assisted living facilities
  (currently seeking representation)

- Department of Public Health & Environment
  (representative: Colorado Health Facilities Division)

- Medical Assistance Long-Term Care Advisory Committee
  (representative: member of Cross Disability Coalition)

MEETINGS AND EXPENDITURES

Committee members do not receive compensation nor incur expenses for their participation in the Home Health Services Pilot Program Advisory Committee. Bimonthly meetings were held from the Committee's inception in September 1994 through December 1994. Monthly meetings were conducted thereafter and quarterly meetings are anticipated during the initial year of program operation. The table below shows the meeting schedule with the number of attendees.

COMMITTEE MEETING ATTENDANCE

Date of Meeting	No. Attending
September 16, 1994	14
September 30, 1994	10
October 14, 1994	7
October 28, 1994	10
November 18, 1994	12
December 2, 1994	12
January 13, 1995	10
January 20, 1995	10
February 17, 1995	8
March 17, 1995	6
April 28, 1995	6
December 19, 1997	6
January 30, 1998	8
February 25, 1998	9
March 4, 1998	20
April 1, 1998	9
December 3, 1998	8
March 18, 1999	4

ADVISORY COMMITTEE ACCOMPLISHMENTS

The original implementation date for the pilot program was scheduled for July 1, 1995. However, since the pilot program would provide services to medical assistance recipients in sites other than those currently authorized by federal guidelines, the State of Colorado needed to obtain a 1115 Medical Research and Demonstration Waiver from the Health Care Financing Administration (HCFA). HCPF's progress towards the implementation goal has been impeded by the lack of approval for the 1115 waiver request. Approval of this waiver is required before HCPF can proceed with program implementation.

The following activities summarize the steps achieved towards program implementation.

1994

Meetings held from September through December 1994 focused on the development of the program design. Such issues discussed included:

- locations where services could be delivered;
- criteria for client participation;
- criteria for agency selection;
- profile of the target client; and
- Colorado Nurse Practice Act and the impact on the program design.

1995

The majority of activity transpiring in 1995 involved the waiver application submitted to the Health Care Financing Administration in May 1995. HCFA responded in September 1995 with 60 questions regarding clarification of the program administration, coverage/benefits, client eligibility, the delivery system, outreach and marketing activities, quality assurance, systems support, program implementation/time frames, and program evaluation. The Committee formulated responses to HCFA's questions and forwarded them to HCFA in October 1995.

1996

The Committee developed regulations for the program and submitted them for review to the Cross Disability Coalition, the Long-Term Care Advisory Committee, the Medicaid Advisory Committee, and the Home Health Agency Advisory Group. Rules were subsequently revised accommodating concerns of various groups. The rules were presented to the Medical Services Board in May 1996 for approval.

1997

The Committee began the development of the program design phase. They reviewed and finalized the eligibility criteria for Home Health Aide Pilot Program participants. In addition, they established the provider requirements and the process by which providers are designated.

Also, the Committee submitted to HCFA a list of nursing functions that may be delegated and the guidelines under which selected tasks are delegated.

1998

The program design development phase continued during 1998 and addressed such issues as confidentiality, enrollment/disenrollment plan, grievance procedure/appeal rights, and the marketing and education plan. The Committee presented proposed rule changes regarding the Home Health Aide Pilot Program to the Medical Services Board.

Responding to HCFA's approval of the Waiver 1115 in October 1998, the Committee formulated the Request for Proposal (RFP). The goal is to send an RFP to home health agencies interested in participating in the project. The RFP requires that agencies submit documentation that demonstrates the stability of the professional staff and the agency; their philosophical commitment to the program; their previous experience in servicing clients with disabilities, and a record of previous reviews by the Colorado Department of Public Health & Environment.

The pilot program, as envisioned, will serve 200 clients who are medically stable and currently utilize over 50 nursing visits and over 230 home health aide visits per year. No more than ten agencies will be selected to participate in the pilot program. The intent is that both rural and urban agencies will be selected. To reach the provider and participant populations affected by the program, the Committee discussed ways of disseminating information to these populations.

1999

The Committee concluded the final design of the Request for Proposal (RFP) and circulated it to home health agencies. In anticipation of an operative program, the Committee and HCFA jointly developed content, format, documentation, and a schedule for production of data files. In addition, they developed protocols and procedures to perform training of pilot agencies and case management agencies whose clients may be affected.

RECOMMENDATIONS

Recommendation 1: The Department of Regulatory Agencies recommends that the General Assembly continue the Home Health Services Pilot Program Advisory Committee and set a new sunset date of 2005.

The Home Health Services Pilot Program Advisory Committee has primary responsibility for developing the quality assurance plan and assisting in the implementation of that plan. The development of this plan is an integral part of successful implementation during the 1999-2000 fiscal year.

Committee input is essential to receiving pertinent feedback regarding operational issues in the initial phases of the program and recommending policy/rule changes. The members of this committee represent a cross section of concerned entities from the nursing, home health, and consumer advocacy communities. It is the forum for collaborative program development/operation and enhances the participation of all parties involved.

The process for approval by the federal government for the pilot program has taken several years. During this lengthy process, the Committee has been instrumental in assisting HCPF in responding to the multitude of requests from the federal government.

Since the pilot program will begin admitting clients during fall 1999, it is necessary that the Committee continue through the implementation of the operational phase of the program. The Committee's input is needed to design a quality assurance program, a data tracking system, and training of approved agencies prior to client enrollment. The Committee's expertise is also needed in an advisory capacity to prepare a grant proposal for evaluation of the pilot program, and to monitor the program operations.

Recommendation 2: Modify the composition of the Committee to include a representative from Health Care Financing Administration.

Health Care Financing Administration (HCFA) is a primary participant in the pilot program for home health services. However, the current composition of the Committee does not afford representation from HCFA. Fifty percent of the funds for this program are provided by HCFA. Additionally, during the design phase of the project, the two agencies have collaborated on issues such as operation protocol, guidelines for delegating nursing functions, quality assurance plan, and data collection requirements. To enhance the representation of the Committee, a designee from HCFA is recommended.

Magnet School Planning Board

CREATION, MISSION AND COMPOSITION

During the 1991 legislative session, Senate Bill 91-172 was enacted which directed the Colorado Department of Education (CDE) to convene an advisory board for the Colorado Magnet School for Mathematics, Science and Technology. The bill directed the advisory board to develop a plan for the creation of the Magnet School by no later than June 30, 1992. This advisory board met regularly from September 1991 until April 1992. Two alternative proposals were explored and developed, one for a residential school option and the other for a day school model. In a 1992 report to the State Board of Education, the Magnet School Planning Board recommended the establishment of a nonresidential pilot school of choice for mathematics, science, and technology.

In 1994, the Colorado General Assembly passed House Bill 94-1044 that abolished the existing advisory board for the Colorado Magnet School for Mathematics, Science, and Technology. The 1994 bill also established another Magnet School Planning Board (Board) to advise and consult with the Commissioner of Education regarding the planning and development of a magnet school. The responsibilities of the newly-created Board include the following:

- Structure of the magnet school
- Uses of distance learning
- Curriculum
- Administration
- Economic feasibility

This Board consists of eight members:

- Executive Director of the Colorado Commission on Higher Education or the executive director's designee.
- Executive Director of the Colorado Department of Education or the executive director's designee.

- Executive Officer of the State Board for Community Colleges and Occupational Education or the executive officer's designee.

- Director of the Systemic Science Initiative or the director's designee.

- One public secondary school classroom teacher appointed by the State Board of Education.

- One member appointed by the State Board of Education from the State Special Education Advisory Committee.

- One member appointed by the State Board of Education from the Colorado Advanced Technology Institute Commission who is employed in the private sector.

- One member appointed by the State Board of Education from the Telecommunications Advisory Commission who is employed in the private sector.

ADVISORY BOARD ACCOMPLISHMENTS

The Board met continuously between September 1994 when the Board was created, and March 1, 1995 when the draft commendations were submitted to the Colorado Commission on Achievement in Education (Commission).

The Board concluded that the concept of a single "magnet school" would not be the best utilization of limited resources or the best use of current technology. Instead, they concluded that the concept of a "magnet school" should be thought of in its broadest sense. Rather than a single site school that restricts access, a model should be developed that fully utilizes the opportunities that technology provides and offers statewide opportunities to students and educators. The primary purpose of the campus site would be to develop the instruction and materials that could be transmitted electronically throughout the state. The Board recommended that the project be located at the Lowry Higher Education and Advance Technology Center.

The Board reported that they did not have the technical or fiscal resources to develop a facilities master plan, curriculum offerings or a technology plan. The Commission recommended that the Board develop a strategic plan for the creation and implementation of the Colorado Magnet Lab School for Mathematics, Science and Technology and its associated Professional Development Center.

The Commission recommended that the State Board of Community Colleges and Occupational Education System (SBCCOES) and the Colorado Department of Education (CDE) submit a grant to the Colorado Commission on Higher Education (CCHE) under the Educational Technology Grants Program. In July 1995, SBCCOES and CDE submitted a grant request for the development of a strategic plan for the creation of the Colorado School for Mathematics, Science, and Technical Professional Development Center (Center). In September 1995, CCHE awarded a $100,000 grant to begin the project. The Strategic Plan would:

- create the mission statement and identify goals, objectives, and major activities for the Center, including the structure of the school, curricular offerings, the uses of distance learning, and the plan for administration of the school.

- identify organizational, structural, and cost estimates for a five-year operating plan.

- identify and refine the necessary public/private partnerships for ongoing curriculum and instructional materials development and telecommunications support.

- establish long-term partnerships with technology vendors/manufacturers to create and document technology enhanced learning environments in support of an ongoing world-class “lab school” and professional development center.

- begin to focus research and research outcomes from other state and national mathematics, science, and technology learning initiatives to maximize the learning opportunity and impact on both the students and educators in the pre K-12 communities.

- establish an annual evaluation and reporting process that addresses technology and learning materials’ effectiveness, student outcomes and educator competency.

In 1996, CCCOES and CDE again submitted a grant request to the CCHE Educational Technology Grant project. The grant request was refused because the Commissioners found that the proposal for funding would duplicate efforts already undertaken. In the Commission's opinion, the proposal simply listed a series of activities to be undertaken with no discernible purpose in mind. To date, there have not been additional funding requests for the project.

RECOMMENDATION

The Department of Regulatory Agencies recommends that the provision in the statute that provides for a Magnet School Planning Board be repealed.

The Magnet School Planning Board has not been operational since July 1995. Per the statutory requirement, the Board submitted a report on the feasibility plan for the magnet school to the Colorado Commission for Achievement in Education. A magnet school was never developed and therefore there is no need for the continuation of the Board.

Advisory Committee on River Outfitter Regulations

CREATION, MISSION AND COMPOSITION

The Colorado General Assembly created the River Outfitter Licensing Program in 1984. Before the formalized efforts in 1984 that imposed safety regulations on river outfitters, Colorado had no restrictions or standards for river outfitters. There was no agency or entity that regulated the safety and quality of river outfitters on rivers in the State of Colorado.

In the early 1980's, preceding the implementation of the river outfitter licensing program, several serious incidents and three deaths involving commercial passengers occurred in Colorado. The subsequent investigation, conducted by the Division of Parks and Outdoor Recreation (DPOR) and the county sheriff, resulted in the filing of criminal charges against the outfitters involved in the deaths. In addition, the DPOR logged five serious passenger complaints that year concerning outfitter carelessness, recklessness, negligence, and use of unsafe equipment.

For consistency of regulation and to maintain high standards, the Colorado River Outfitters Association (CROA), a trade organization formed in 1980 by Colorado commercial river outfitters, undertook a formalized effort to implement a state licensing program. The success of CROA efforts is reflected in a river outfitter regulatory program that places regulatory responsibility with the Colorado Board of Parks and Outdoor Recreation (Board) within the Department of Natural Resources. The Board consists of five members appointed by the Governor. The duties of the Board specific to the river outfitters licensing program include:

- enacting rules and regulations necessary to govern the annual licensing of river outfitters;
- ensuring the safety of associated river running activities; and
- carrying out the licensing program.

DPOR was designated as the agency that would provide regulatory oversight of licensed river outfitters in Colorado. The regulatory oversight program involves “parks and recreation officers”, also known as “river rangers”, making inspections of records and safety equipment, handling investigations of complaints and accidents, participating in search and rescue activities, and responding to questions from the public. The focus of the regulation is consumer safety. The minimum requirements for commercial river outfitters address liability insurance coverage; equipment criteria such as inflation of rafts, personal flotation devices, and first aid kits; guide qualifications; passenger orientation; accident reporting requirements; and record keeping requirements.

The Board of Parks and Outdoor Recreation has promulgated several rules to augment the statutory authority to regulate river outfitters. In addition to licensing related rules, the Board has addressed such issues as rights of private landowners, reporting of vessel accidents, and the responsibility for acts of employees.

Other rules pertain to minimum qualifications for guides, instructors, and trip leaders; basic orientation for passengers; maintenance of qualification records for employees; accident reporting requirements; trip log record keeping requirements; safety standards for commercial rafting trips; and enforcement authority by peace officers. The rules also relate to complaints, declaratory orders, cease and desist orders, notice of violations, and show cause orders.

The River Outfitter Licensing Program was subject to a sunset review in 1994. House Bill 94-1015, a direct result of the sunset report, made several substantial changes to the program. The bill repealed all rules of the Board and directed the Board to re-promulgate necessary rules. The original draft of HB 94-1015 did not contain the section creating the advisory committee. However, the Colorado River Outfitters Association was successful in obtaining an amendment to the bill creating a three person advisory committee.

Advisory Committee on River Outfitter Regulations

The Advisory Committee on River Outfitter Regulations (Committee) was created to make recommendations to the Board of Parks and Outdoor Recreation concerning safety standards for river-running. The Committee consists of three members, two representing river outfitters and one representing the Division of Parks and Outdoor Recreation. Currently, the two river outfitter representatives are both members of CROA and the Division representative is the Chief of Law Enforcement. There are presently 170 licensed river outfitters; 62 who are members of CROA.

MEETINGS AND EXPENDITURES

The Committee did not generate any revenue, nor seek any form of reimbursement for expenses. The Committee met three times during the fall of 1994 and early winter of 1995, and once in March 1997.

ADVISORY COMMITTEE ACCOMPLISHMENTS

The majority of the accomplishments regarding safety standards for river outfitters occurred during 1994-1995. During the major rule-making process in 1994-1995, the Committee sent a letter to every licensed river outfitter requesting comments. CROA also published an article in their November 1994 newsletter soliciting input. In addition, the Committee convened two public meetings, one in Summit County in November 1994, and one in Denver in February 1995. Persons attending these public meetings were given copies of the draft regulations and an opportunity to comment on them. Approximately 150-200 persons attended the meetings.

In 1997, there was a need to revise the regulations regarding liability insurance policies as a result of changes in the insurance industry. Regulations were amended with the input of the Committee.

RECOMMENDATION

The Department of Regulatory Agencies recommends that the General Assembly sunset the Advisory Committee on River Outfitter Regulations. It is the conclusion of this review that the Committee is no longer needed.

The Committee is charged with advising the Board concerning the regulations for safety standards for river-running. Since its inception in 1994, the Committee has met four times. During 1994-1995, the Committee participated in the rulemaking that was necessary after the repeal and reenactment of all rules for the River Outfitter Licensing Program. It was not until 1997 that the Committee convened again to discuss changes in liability insurance for river outfitters. The Committee has not convened since 1997.

One of the criteria that the General Assembly uses to determine whether an advisory committee should continue is the number of times that it meets. The Committee has not met in over two years and has only met four times in 5 years. The evidence demonstrates that the river outfitter industry does not routinely encounter problems requiring input from an advisory committee. Granted, the Committee's contributions to the major rulemaking revision were significant. However, when future issues arise that require input from the river outfitter industry, the public notification provisions in the rulemaking process should provide advisory assistance to the Board, or the Board may appoint an ad hoc committee.

Quality of Care Incentive Payment Program Advisory Committee

CREATION, MISSION AND COMPOSITION

The Quality of Care Incentive Payment Program for nursing facility vendors was established with the passing of Senate Bill 94-110 during the 1994 legislative session. At that time, a nine person advisory committee was created to study and make recommendations to the Colorado Department of Health Care Policy & Financing (HCPF). The study focused on measuring "high quality of care" provided by Medicaid nursing facility providers in order to award monetary recognition.

The first meeting of the Quality of Care Incentive Payment Program Advisory Committee (Committee) was held in June 1994. The Committee reviewed various approaches to quality incentive payments for nursing homes as a basis for developing a new program for Colorado. In 1995, the Committee developed the idea of ResQUIP (Resident Center Quality Improvement Program) which was subsequently implemented in January 1996. Participation in ResQUIP is voluntary.

The ResQUIP program encourages nursing homes to develop an ongoing, continuous quality improvement plan through the collaborative effort of a team consisting of residents, families, and staff. This is accomplished by making a facility more like home, making life more interesting and fulfilling, and including residents in the decision making process. The mission statement for the program states:

> *…the improvement of the quality of life in nursing homes in Colorado is achieved by resident participation in life-enriching activities that promote enhanced communication, greater understanding of resident needs, self-determination and freedom of choice, building of positive relationships and a sense of community in a non-threatening environment that provides an encouraging and accepting atmosphere.*

The program is divided into four phases: assessment, planning, implementation, and evaluation. During the assessment phase, nursing homes establish a ResQUIP team that consists of one-third of the members from the resident population, as well as representation from families and staff. This team identifies specific areas where improvement is needed to enhance the residents' quality of life within two major categories, choices and relationships. The team is responsible for implementing the remaining three phases of the program following specific guidelines for each phase. Resident participation and input are critical ingredients in each phase.

Upon completion, the Committee evaluates the nursing facility's ResQUIP plan based on four criteria:

- resident impact and participation;
- choices and relationships;
- creativity and innovation; and
- sustainability of the project beyond the year of implementation.

Upon approval, a monetary incentive is awarded to the facility. Monetary incentives are based on approval of the plan by the Committee, the number of Medicaid patient days; the number of deficiencies, if any, the facility received during the most recent inspection survey; and the successful implementation of the ResQUIP plan.

During the evaluation phase, the Colorado Department of Public Health & Environment (CDPHE) performs on-site visits to the facilities to assess the project. During the visit, CDPHE confirms that the plan is progressing, that the project completion is on schedule, and that residents are involved and satisfied with the project. During this visit, the inspector makes a funding recommendation to the Committee. The evaluation phase also includes an evaluation by residents, at the conclusion of the first year, to determine whether or not to continue the project. Ideally, the project is sustainable and will continue, laying a foundation for new projects every year.

Participation in the program has remained constant with a slight increase in the past two years. In 1996, the Committee approved 164 plans and denied five plans. The year 1997 remained consistent with 165 approved and two denied. During 1998, the Committee approved all 173 plans submitted.

Examples of ResQUIP projects form Colorado facilities include:

- Wheelchair accessible vegetable and flower gardens
- Resident produced staff training video focusing on resident rights and dignity
- Massage therapy and aromatherapy
- Ceramics and woodworking classes
- Animal companionship – dogs, cats, birds, rabbits, chickens, pot-bellied pigs – where staff and residents provide the care
- Computer/library with weekly computer classes
- Enhanced outdoor areas with gazebos, gardens, and bird feeders

The Committee is appointed by the Executive Director of HCPF and consists of nine members including:

- one representative from HCPF;
- two persons representing interests of consumers;
- one representative from the Department of Public Health & Environment; and
- one representative from the State Long-Term Care Ombudsman office

The four remaining members are selected from a list of nominees recommended by proprietary and nonproprietary facilities:

- two representatives from the Long-Term Care Facility Association for Proprietary Facilities; and

- two representatives from the Long-Term Care Facility Association for Nonproprietary Facilities.

Members of the Committee serve for a two year term. The Executive Director of HCPF fills any vacancies occurring during a member's term for the remainder of the term.

MEETINGS AND EXPENDITURES

Committee members do not receive compensation for their participation. Although there are no required number of meetings, the Committee met weekly during 1997, monthly during 1998, and less frequently in 1999.

DATE OF MEETING	TYPE OF MEETING	PERSONS PRESENT
June 4, 1999	Regular	5
April 2, 1999	Regular	7
December 4, 1998	Regular	11
November 6, 1998	Regular	11
October 2, 1998	Regular	11
September 4, 1998	Regular	12
August 7, 1998	Regular	10
July 10, 1998	Regular	19
June 5, 1998	Regular	20
May 1, 1998	Regular	15
April 3, 1998	Regular	15
March 6, 1998	Revised Rule Discussion	11
January 9, 1998	Regular	12
December 5, 1997	Regular	13
November 7, 1997	Regular	15
October 3, 1997	Regular	6
September 5, 1997	Regular	16
August 5, 1997	Regular	14
June 30, 1997	Regular	17
May 30, 1997	Regular	9
May 9, 1997	Regular	10
April 18, 1997	Regular	10
April 11, 1997	Regular	15
April 4, 1998	Regular	15
March 6, 1998	Revised Rule Discussion	11
January 9, 1998	Regular	12
March 21, 1997	Regular	10
March 6, 1997	Regular	11
February 25, 1997	Regular	17
February 14, 1997	Sub-committee	4

ADVISORY COMMITTEE ACCOMPLISHMENTS

The primary responsibility of the Committee is to study and make recommendations to Health Care Policy & Financing on the appropriate method of measuring a high quality of care for the purpose of making payments to nursing home providers. During the initial period of implementation in 1996 through June 1999, the Committee accomplished the following:

Incentive Payments – An incentive payment to a nursing facility is based on two criteria: the results of the facility's last full standard survey (inspection) and whether the facility submitted and completed an approved ResQUIP plan. For 1996–1999, the Committee approved the ratio of the ResQUIP plan portion and the deficiency portion to determine monetary awards to nursing home facilities. For 1996, incentive payments to nursing homes were apportioned so that 50% was based on a facility having 0-2 deficiencies noted during a Health Facilities Division survey, and 50% based on an approved ResQUIP plan. In 1997, the Committee revised the ratio to reflect a 60% allocation for the approved ResQUIP plan and 40% for 0-2 deficiencies. For 1998 and 1999, the Committee approved an incentive payment ratio of 70% for the ResQUIP plan and 30% for 0-2 deficiencies.

Brochure Development – The Committee created a brochure to describe the mission and administration of the ResQUIP program. The brochure was completed and distributed to the Colorado Health Care Association, State Ombudsmen, and the Health Facilities Division of CDPHE.

Revision of Criteria – A subcommittee presented recommendations to the Committee for the improvement of the "ResQUIP Criteria Scoring Sheet." The criteria is used to evaluate resident impact and participation in the program; choices and relationships to the community and to the environment; creativity and innovation of the program; and long term sustainability of the plan.

Training Handbook – The Committee created a training handbook describing the purpose, benefits, and procedures of the ResQUIP program to provide information to nursing home facilities.

ResQUIP Stars Program – To recognize facilities whose ResQUIP plans exceed requirements and display exemplary performance, a special awards program was created. Up to 12 facilities whose ResQUIP projects are determined to be outstanding by the Committee receive a "ResQUIP Star" payment.

ResQUIP Plan Review – One committee member reviews a facility's ResQUIP plan and presents comments to the entire Committee for comment and approval. Reviewers often encounter such issues as incomplete plans, major renovation projects that do not benefit residents, and minimal plans without assessment or planning components.

On-Site Evaluation Reports – The Committee reviews the on-site evaluation reports performed by a CDPHE staff member. The report is reviewed to determine whether the facility followed the original ResQUIP plan and whether the plan is being effectively implemented.

RECOMMENDATION

The Department of Regulatory Agencies recommends that the General Assembly continue the Quality of Care Incentive Payment Program Advisory Committee.

The ResQUIP program exists to elevate the residents' quality of life above the minimum standards required by the Omnibus Budget Reconciliation Act (OBRA) that made sweeping reforms to nursing home regulations in 1987. This is accomplished by providing choices that will enhance the relationships and communications with other residents, residents' families, staff, and the outside community. Without the input of the Quality of Care Advisory Committee, it would be difficult for this program to be as successful as it is. The Committee's expertise in different areas of nursing facility operations and care of residents provides the Department of Health Care Policy & Financing and the Department of Public Health & Environment with the feedback it needs. This information assists in determining whether the submitted plans have been suggested, developed, and implemented with resident participation. Members of the Committee have developed the criteria for the evaluation of the plans and annually review and evaluate these plans. It would be difficult for the HCPF and CDPHE staff to furnish the staff time and diverse expertise the Committee provides.

The Committee also provides input and recommendations to HCPF for the operation and improvement of the program. Some of the areas in which the Committee advises HCPF are the following:

- review of ResQUIP initial plans;
- implementation and completion of projects according to submitted plan;
- changes in ResQUIP rules;
- determination of percentages of funding for ResQUIP payments;
- ideas to enhance the quality of life for nursing facility residents;
- future direction of the program;
- filling membership vacancies;
- development of criteria to review submitted plans and ResQUIP Stars.

The primary value of the Committee is the diverse backgrounds of its members. The Committee is comprised of providers, consumers, Ombudsmen, and state staff from HCPF and CDPHE. The diversity of experience and background of the Committee members provides invaluable insight into programmatic needs.

Appendices

Appendix A - §26-4-529, C.R.S. - Home Health Services - Pilot Program - Advisory Committee Statute

(1) The department shall conduct a pilot program to determine the feasibility and cost-effectiveness of using trained home health aides to provide specific nursing services to medical assistance recipients in:

(a) The recipient's own residence;

(b) Any other residence, other than a nursing facility, hospital, or intermediate care facility for the mentally retarded; or

(c) Other sites including, but not limited to, schools, work sites, or day treatment centers.

(1.5) The department shall implement the pilot program no later than July 1, 1995. The department shall implement the program in a manner that is consistent with the "Nurse Practice Act" and with the provisions of article 38.1 of title 12, C.R.S., governing the regulation of nurse aides. Under the program, home health aides shall provide services under the supervision of registered nurses in accordance with section 12-38-132, C.R.S.

(2) The state department shall adopt rules as necessary for the implementation and administration of the pilot program. The department, in its rules, shall specify:

(a) The nursing services that may be provided to medical assistance recipients by home health aides;

(b) That a professional nurse is to determine whether a recipient's condition is appropriate for the services authorized by the rules based on an initial assessment of the client, that the professional nurse is to assess and monitor services provided to a recipient on an ongoing basis and provide ongoing instruction and assistance to a home health aide and intervention services for the recipient, as deemed appropriate by the professional nurse, and that the functions performed by the professional nurse are to be reimbursed as skilled nursing services under the pilot program;

(c) That the services authorized by the rules are to be provided as a routine part of a recipient's care;

(d) That the recipient is allowed to participate in decisions concerning the recipient's care;

(e) That the recipient may, at any time, refuse to participate in the pilot program without penalty;

(f) That participation in the pilot program by home health agencies, individual nurses, and individual home health aides is strictly voluntary; and

(g) That the supervising nurse has the authority to approve the delegation of functions to be performed by home health aides under the pilot program.

(3) (a) In order for the department to develop and implement the pilot program with sufficient input from persons impacted by the program, there is hereby created an advisory committee to be appointed by the executive director. The committee consists of nine members who represent the following populations:

(I) Advocacy groups representing persons with disabilities and the frail elderly;

(II) Medical assistance recipients described in subsection (1) of this section who receive nursing services;

(III) The home health agency providers association;

(IV) The professional nurses' association;

(V) The state board of nursing;

(VI) Assisted living facilities;

(VII) The department of public health and environment;

(VIII) The medical assistance long-term care advisory committee.

(b) The executive director of the department, in the development and implementation of the pilot program, shall, on a regular basis, consult fully with the members of the advisory committee created in paragraph (a) of this subsection (3).

(c) (I) This subsection (3) is repealed, effective July 1, 2000.

(II) Prior to said repeal, the advisory committee shall be reviewed, as provided in section 2-3-1203 (3), C.R.S.

(4) The department shall contract with a public or private entity to conduct an independent evaluation of the pilot program. On or before October 1, 1996, the department shall provide a written report to the general assembly, based on the independent evaluation. The department shall include in the report the independent evaluator's assessment of the cost-efficiency, which includes identifying any cost-savings to the medical assistance program and any other public benefits programs, benefit, impact on the quality of care and client outcomes, and impact upon recipients' ability to live independently as a result of the provision of nursing services to medical assistance recipients by home health aides. In addition, the department shall include in the report recommendations for implementation of any model or proposed program modification.

(5) The executive director of the department is hereby authorized to accept on behalf of the state any grants or donations from any private source and any public moneys appropriated for the purpose of implementing this section.

(6) The pilot program shall terminate on July 1, 2000, unless extended by the general assembly.

(7) This section is repealed, effective July 1, 2000.

Appendix B - §22-84-102, C.R.S. - Magnet School Planning Board Statute

(1) (a) Effective July 1, 1994, the existing advisory board for the Colorado magnet school for mathematics, science, and technology is abolished, and the terms of members of the board serving as such immediately prior to July 1, 1994, are terminated.

(b) Effective July 1, 1994, there is hereby created the magnet school planning board for the Colorado magnet school for mathematics, science, and technology. The board shall advise and consult with the commissioner of education with respect to planning and development of the magnet school, including the structure of the magnet school, the uses of distance learning, the curriculum to be taught, the administration of the magnet school, and the economic feasibility of the magnet school.

(2) The magnet school planning board shall consist of eight members as follows:

(a) The executive director of the Colorado commission on higher education or the executive director's designee;

(b) The executive director of the Colorado department of education or the executive director's designee;

(c) The executive officer of the state board for community colleges and occupational education or the executive officer's designee;

(d) The director of the systemic science initiative or the director's designee;

(e) One member appointed by the state board of education from the state special education advisory committee;

(f) One public secondary school classroom teacher appointed by the state board of education;

(g) One member appointed by the state board of education from the Colorado advanced technology institute commission who is employed in the private sector; and

(h) One member appointed by the state board of education from the telecommunications advisory commission who is employed in the private sector.

(3) The members of the magnet school planning board who are appointed by the state board of education shall serve two-year terms; except that, in case of a vacancy, the appointment shall be for the remainder of the unexpired term. Each of the members of the magnet school planning board who are appointed by the state board of education may serve a total of two full consecutive terms. All of the members of the magnet school planning board shall serve without compensation but shall be reimbursed out of existing appropriations to the department of education for actual and necessary expenses incurred in the performance of their duties.

(4) The magnet school planning board may receive staffing assistance from the department of education out of the department's existing appropriations in performing its duties under this section.

(5) (a) This section is repealed, effective July 1, 2000.

(b) Prior to said repeal, the magnet school planning board for the Colorado magnet school for mathematics, science, and technology shall be reviewed as provided for in section 2-3-1203, C.R.S.

Appendix C - §33-32-110, C.R.S. - Advisory Committee on River Outfitter Regulations Statute

(1) The board shall appoint an advisory committee to make recommendations concerning regulations required under section 33-32-105 (1) (c). The advisory committee shall consist of three members, two of whom shall be river outfitters and one of whom shall represent the division. The advisory committee shall serve at the request and pleasure of the board.

(2) (a) This section is repealed, effective July 1, 2000.

(b) Prior to said repeal, the advisory committee shall be reviewed as provided for in section 2-3-1203, C.R.S.

Appendix D - §26-4-410, C.R.S. - Quality of Care Advisory Committee Statute

(1) (a) (I) For the purpose of making payments to private, nonprofit, or proprietary nursing facility providers and intermediate care facilities for the mentally retarded, the state department shall establish a price schedule to be readjusted every twelve months, which shall reimburse, subject to available appropriations, each such provider, as nearly as possible, for its actual or reasonable cost of services rendered, whichever is less, and a fair rental allowance for capital-related assets as defined in section 26-4-503 (4). The state department shall adopt rules and regulations, including uniform accounting or reporting procedures, in order to determine such actual or reasonable cost and the reimbursement therefor. The provisions of this subparagraph (I) shall not apply to state-operated intermediate care facilities for the mentally retarded.

(II) State-operated intermediate care facilities for the mentally retarded shall be reimbursed based on the actual costs of administration, property, including capital-related assets, and room and board, and the actual costs of providing health care services, and such costs shall be projected by such facilities and submitted to the state department by July 1 of each year for the ensuing twelve-month period. Reimbursement to state-operated intermediate care facilities for the mentally retarded shall be adjusted retrospectively at the close of each twelve-month period. The state department shall adopt rules and regulations to be effective by June 30, 1988, implementing the provisions of this subparagraph (II). In the implementation of such rules, the state department shall insure, by the establishment of classes of facilities, that the reimbursement to private, nonprofit, or proprietary state-operated intermediate care facilities for the mentally retarded or developmentally disabled, as defined in section 27-10.5-102 (11), C.R.S., is not adversely impacted.

(b) No provider payment under paragraph (a) of this subsection (1) made on or after July 1, 1985, shall be lower than the provider payment in effect on June 30, 1985, solely as a result of a payment of a fair rental allowance for capital-related assets. For the fiscal year 1986-87 and thereafter, that portion of a provider payment required by this paragraph (b) shall be reduced by fifty percent.

(c) On and after July 1, 1987, if a provider payment under paragraph (a) of this subsection (1) is greater than the provider payment in effect on June 30, 1985, and such increase is wholly or partly the result of the payment of a fair rental allowance for capital-related assets, then that portion of the increase in the provider payment attributable to the payment of a fair rental allowance for capital-related assets shall be reduced by fifty percent.

(2) (a) Repealed.

(b) In addition to such actual or reasonable costs and the reimbursement therefor, the state department shall, subject to available appropriations, include an allowance, equal to the change in the national bureau of labor statistics consumer price index from the preceding year, which is to compensate for fluctuating costs. This amount shall be determined every twelve months when the statewide average cost is determined as set forth by the rules and regulations of the state department. This allowance is applied to all costs, less interest, up to the reasonable cost established and will be allowed to proprietary, nonprofit, and tax-supported homes; except that such allowance shall not be applied to the costs of state-operated intermediate facilities for the mentally retarded.

(c) The medical services board shall adopt rules and regulations to:

(I) Repealed.

(II) (A) Determine and pay to privately owned intermediate care facilities for the mentally retarded a reasonable share of the amount by which the reasonable costs of the categories of administration, property, and room and board, excluding food costs, exceed the actual cost in these categories only. Such reasonable share shall be defined as twenty-five percent of such amount in such categories for each facility, not to exceed twelve percent of the reasonable cost.

(B) Determine and pay to nursing facility providers a reasonable share of the amount by which the reasonable costs of the categories of administration, property, and room and board, excluding food costs, exceed the actual cost in these categories only of each facility provider. Such reasonable share shall be defined as twelve and one-half percent of such amount in such categories for each facility, not to exceed twelve percent of the reasonable cost. As used in this sub-subparagraph (B), "nursing facility provider" shall have the same meaning as set forth in subparagraph (VII) of paragraph (c.5) of this subsection (2).

(C) This subparagraph (II) shall take effect January 1, 1995.

(c.5) (I) There is hereby established a quality of care incentive payment program for the purpose of encouraging improvement in the quality of care provided by nursing facility providers. The sum of all incentive payments made under the program shall be equal to the aggregate sum of payments made to all nursing facility providers under sub-subparagraph (B) of subparagraph (II) of paragraph (c) of this subsection (2).

(II) Beginning January 1, 1995, the department shall issue incentive payments under the program to nursing facility providers that meet the criteria established by the department through rules and regulations. In determining which providers shall be eligible to receive incentive payments, the department shall consider the following factors:

(A) Whether the provider is delivering a high level of quality of care as measured by the number of validated and proven deficiencies on the provider's last full recertification survey;

(B) Whether the provider is meeting such other patient care standards as may be adopted by the department after considering the advice of the advisory committee created by subparagraph (VI) of this paragraph (c.5);

(C) The number of days of care provided annually under the state medical assistance program;

(D) The resident care characteristics; and

(E) The facility size and location.

(III) The department shall promulgate rules and regulations establishing the dollar amounts of incentive payments available through the program. Incentive payments may be graduated in amount in order to provide higher payments to those nursing facility providers that provide a comparatively higher degree of quality care.

(IV) (A) For the period beginning January 1, 1995, and ending June 30, 1995, the department shall assess all nursing facility providers in accordance with the criteria adopted pursuant to subparagraph (II) of this paragraph (c.5) for the purpose of identifying those providers that are eligible to receive quality incentive payments. Based on such assessment, the department shall issue quality incentive payments to a minimum of forty-five percent of all such providers.

(B) Beginning July 1, 1995, and on July 1 of each fiscal year thereafter, the department shall reassess all nursing facility providers in accordance with the criteria adopted pursuant to subparagraph (II) of this paragraph (c.5) for the purpose of identifying those providers that are eligible to receive quality incentive payments. Based on such assessment, the department shall issue annual quality incentive payments.

(V) In the event a nursing facility provider is denied an incentive payment under this paragraph (c.5), the provider shall be afforded an opportunity for a hearing in accordance with the provisions of section 24-4-105, C.R.S., as administered under section 25.5-1-107 (2), C.R.S., and the rules and regulations promulgated by the department that govern aggrieved provider appeals of rate determinations, without first meeting the requirement of informal reconsideration by the department.

(VI) (A) There is hereby created an advisory committee of nine persons to study and make recommendations to the state department on the appropriate method of measuring a "high level of quality care" for the purpose of making payments to providers under this paragraph (c.5). The committee shall be appointed by the executive director of the state department and shall be composed of one representative from such department, two individuals who represent the interests of consumers, one representative of the state department of public health and environment, and one representative from the state long-term care ombudsman office. The remaining four members shall be selected from a list of nominees recommended by proprietary and nonproprietary facilities as follows: Two representatives from the long-term care facility association for proprietary facilities; and two representatives of the long-term care facility association for nonproprietary facilities. The committee members shall serve without compensation. Appointments shall be made for terms of two years. Vacancies that occur during any term shall be filled by the executive director for the remainder of such term.

(B) This subparagraph (VI) is repealed, effective July 1, 2000. Prior to said repeal, the advisory committee shall be reviewed as provided for in section 2-3-1203, C.R.S.

(VII) As used in this paragraph (c.5), "nursing facility provider" means a facility provider that meets the state nursing home licensing standards in section 25-1-107 (1) (l) (I) or (1) (l) (II), C.R.S., is maintained primarily for the care and treatment of inpatients under the direction of a physician, and meets the requirements in 42 U.S.C. sec. 1396d for certification as a qualified provider of nursing facility services.

(d) There is hereby established within the department a nursing facility patient program improvement fund. The state department shall pay out of such fund, subject to rules and regulations adopted by the medical services board and subject to appropriations made for that purpose by the general assembly, moneys to any qualified nursing facility submitting a proposal which would provide medicaid services to a more difficult patient case mix or which would improve quality of care and quality of life within the qualifying facility.

(3) For the purpose of making payments for providers' services, the rules and regulations established by the state department shall provide that, in the determination of reasonable compensation, the criteria provided under Title XVIII of the social security act shall be taken into consideration. The state has authority to implement prospective rate reimbursement for providers where appropriate; except that the state department is authorized to pass payments through to nursing facility providers in advance of providers' implementation of the automated minimum data-set system, in accordance with the federal "Omnibus Budget Reconciliation Act of 1987". The state department shall not arbitrarily discriminate between physicians and optometrists who provide similar services, goods, and prosthetic devices in the field of vision care within the scope of their respective practices, as defined by state law.

(4) (a) For the purposes of this section, "reasonable costs" means the maximum allowable reimbursement based on the following categories of costs:

(I) Actual health care services and food costs; and

(II) Actual administration, property, and room and board costs, excluding capital-related assets and excluding food costs.

(b) Effective July 1, 1995, the maximum allowable reimbursement shall not exceed the following amounts in the following categories:

(I) Administrative costs: (A) Class I facilities: One hundred twenty percent of the weighted average actual costs of all class I facilities;

(B) Class II facilities: One hundred twenty percent of the weighted average actual costs of all class II facilities;

(C) Class IV facilities: One hundred twenty percent of the weighted average actual costs of all class IV facilities.

(II) Health care - food costs: (A) Class I facilities: One hundred twenty-five percent of the weighted average actual costs of all class I facilities;

(B) Class II facilities: One hundred twenty-five percent of the weighted average actual costs of all class II facilities;

(C) Privately owned class IV facilities: One hundred twenty-five percent of the weighted average actual costs of all class IV facilities.

(b.5) For the purpose of calculating the maximum allowable reimbursement rates identified in subparagraphs (I) and (II) of paragraph (b) of this subsection (4), costs shall be imputed to the eighty-fifth percentile for urban facilities with occupancy rates below eighty-five percent.

(c) Food costs shall not include the costs of real or personal property, staff, preparation, or other items related to the food program. The dollar amount per patient day shall be established every twelve months in accordance with rules established by the medical services board.

(d) (I) The general assembly finds that the historical growth in nursing facility rates has significantly exceeded the rate of inflation. These increases have been caused in part by the inclusion of Medicare costs in Medicaid cost reports. The state of Colorado has an interest in limiting these exceptional increases in Medicaid nursing facility rates by imposing growth ceilings on nursing facility rates, instituting a case-mix reimbursement system, removing Medicare part B direct costs from the Medicaid nursing facility rates, and imposing a ceiling on the Medicare part A ancillary costs that are included in calculating Medicaid nursing facility rates.

(II) Notwithstanding any other provision in this article, the following limitations shall apply to rates for reimbursement of nursing facilities:

(A) For all rates effective on or after July 1, 1997, for each class I and class V facility, any increase in administrative costs shall not exceed six percent per year and any increase in health care services costs shall not exceed eight percent per year; and

(B) For all rates effective on or after July 1, 1997, for each class I and class V facility, only such costs as are reasonable, necessary, and patient-related may be reported for reimbursement purposes. Nursing facilities may include whatever level of Medicare part A ancillary costs was included and allowed in the facility's latest Medicaid cost report filed prior to July 1, 1997. Any subsequent increase in this amount shall be limited to either the increase in the facility's allowable Medicare part A ancillary costs or the percentage increase in the cost of medical care reported in the United States department of labor bureau of labor statistics consumer price index for the same time period, whichever is lower. Part B direct costs for Medicare shall be excluded from the allowable reimbursement for facilities.

(III) The specific methodology for calculating the limitations and cost reporting requirements described in this paragraph (d) shall be established by rules promulgated by the state department.

(e) (I) The state department is authorized to utilize a case-mix system for reimbursing some or all of Colorado's class I and class V medicaid nursing facilities. A case-mix reimbursement system reimburses each facility according to the resource consumption in treating its case mix of medicaid residents, which may include such factors as the age, health status, resource utilization, and diagnoses of the facility's medicaid residents.

(II) A case-mix reimbursement system shall be instituted if the state department and the joint budget committee of the Colorado general assembly determine prior to implementation that such a reimbursement system will not increase state expenditures for nursing facility care.

(III) The administrative costs for implementing a case-mix reimbursement system shall be paid from the savings that result from the provisions in paragraph (d) of this subsection (4).

(IV) The state department and the state board shall promulgate such rules as may be necessary to implement a case-mix reimbursement system.

(V) The state department shall report to the joint budget committee and to the health, environment, welfare, and institutions committees of the general assembly no later than November 1, 1997, concerning the following:

(A) The status of the state department's efforts to develop a case-mix reimbursement system;

(B) The feasibility of implementing a case-mix reimbursement system by July 1, 1998; and

(C) The impact upon medicaid nursing facility rates caused by the inclusion of medicare costs in medicaid cost reports.