
12.500 COLORADO ~~TRAUMATIC BRAIN INJURY~~ TRUST FUND SERVICES PROGRAM

12.510 INTRODUCTION [Rev. eff. 6/1/12]

These rules implement the Colorado ~~Traumatic-Brain Injury~~ TRUST FUND SERVICES ADMINISTERED BY ~~Program (Program)~~ MINDSOURCE – BRAIN INJURY NETWORK (MINDSOURCE) as defined in Title 26, Article 1, Part 3, C.R.S.

Individuals who are eligible for program services do not have an entitlement to services. Program services are subject to available funding. If the demand for and need for services exceeds the available funding, the entity under contract to provide services shall maintain a wait list of eligible persons. The ~~TBI~~ Program MINDSOURCE Program Director, ~~Traumatic-Brain Injury~~ BRAIN INJURY Board of Directors, and contractor shall determine how eligible persons on the wait list are considered for program services. Eligible persons may receive priority placement on the wait list by the ~~TBI~~ BRAIN INJURY Program Director, ~~TBI~~ BRAIN INJURY Board of Directors, and contractor based on the health, safety, and welfare of the eligible person. AS PER 26-1-304, SECTION (5), "THE BOARD MAY PRIORITIZE THE SERVICES COVERED BY THE TRUST FUND AND ELIGIBILITY FOR THE SERVICES WHILE ENSURING FIDELITY TO THE PROGRAM'S ORIGINAL INTENT TO SERVE INDIVIDUALS WITH TRAUMATIC BRAIN INJURIES".

12.520 DEFINITIONS [Rev. eff. 6/1/12]

"Applicant" means an individual for whom an application or referral for services has been completed.

~~Care~~ SERVICE Coordination AND SKILLS TRAINING" means a collaborative process that assesses, plans, implements, coordinates, monitors and evaluates the options and services required to meet individual's needs, using communication and available resources to promote quality, cost effective outcomes.

"Contractor" means an organization or entity that is under contract with the Department to perform intake and eligibility determination services or to provide services to program participants.

~~"Partner" means an organization or entity that is collaborating with the Department to provide support and services to program participants.~~

"Program" means the Colorado ~~Traumatic-Brain Injury~~ Program, as defined in Title 26, Article 1, Part 3, C.R.S.

"Program participant" means an individual for whom an application or referral for program services has been completed, who has been determined to meet all of the program eligibility criteria, and who has been referred to a contractor ~~or partner~~ to receive program services or to be placed on the contractor's ~~or partner's~~ wait list for services.

"Protected health information" means any information about an applicant or program participant that is protected under the Health Insurance Portability and Accountability Act of 1996, Public Law Number 104-191, which is incorporated by reference. No later amendments or editions are incorporated. This information will be included in the program application materials and may be obtained by requesting an application for program services. Copies of this material are also available for review by contacting the ~~Traumatic Brain Injury Program~~ MINDSOURCE Director, Colorado Department of Human Services, 1575 Sherman Street, Fourth Floor, Denver, Colorado 80203; or at any State publications depository library.

~~"Subrogation" means that the individual must reimburse the Program for funded purchased services if he/she recovers expenses from a third party.~~

~~"Traumatic Brain Injury (TBI)" means injury to the brain caused by physical trauma resulting from, but not limited to, incidents involving motor vehicles, sporting events, falls, blast injuries, and physical assaults. Documentation of traumatic brain injury shall be based on adequate medical history, neurological examination, including mental status testing or neuropsychological evaluation. Where appropriate, neuroimaging may be used to support the diagnosis. A traumatic brain injury shall be of sufficient severity to produce partial or total disability as a result of impaired cognitive ability and physical function. BRAIN INJURY" REFERS TO DAMAGE TO THE BRAIN FROM AN INTERNAL OR EXTERNAL SOURCE, INCLUDING A TRAUMATIC BRAIN INJURY, THAT OCCURS POST-BIRTH AND IS NONCONGENITAL, NONDEGENERATIVE, AND NONHEREDITARY, RESULTING IN PARTIAL OR TOTAL FUNCTIONAL IMPAIRMENT IN ONE OR MORE AREAS, INCLUDING BUT NOT LIMITED TO ATTENTION, MEMORY, REASONING, PROBLEM SOLVING, SPEED OF PROCESSING, DECISION-MAKING, LEARNING, PERCEPTION, SENSORY IMPAIRMENT, SPEECH AND LANGUAGE, MOTOR AND PHYSICAL FUNCTIONING, OR PSYCHOLOGICAL BEHAVIOR.~~

DOCUMENTATION OF BRAIN INJURY MUST BE BASED ON ADEQUATE MEDICAL HISTORY. A BRAIN INJURY MUST BE OF SUFFICIENT SEVERITY TO PRODUCE PARTIAL OR TOTAL DISABILITY.

~~"TBI Board" or "TBI Board of Directors" means the Colorado Traumatic Brain Injury Board created with the State Department of Human Services pursuant to Section 26-1-302, C.R.S.~~

12.530 ELIGIBILITY [Rev. eff. 7/1/17]

Applicants who meet all of the following criteria are eligible to receive program services:

1. The applicant has a ~~traumatic~~ brain injury; and,
2. The applicant lives within the State of Colorado and considers Colorado to be their place of residency; and,
3. ~~The applicant agrees to subrogation when purchased services supports are available.~~

12.540 SERVICES [Rev. eff. 6/1/12]

All program participants who receive program services shall receive ~~care~~ SERVICE coordination AND SKILLS TRAINING. ~~services. Additional client purchased services may be provided as program funds permit.~~ IN ADDITION TO SERVICE COORDINATION AND SKILLS TRAINING, THE BOARD SHALL DETERMINE ANY ADDITIONAL SERVICES COVERED BY THE TRUST FUND.

12.541 Case Closure [Rev. eff. 6/1/12]

~~Care~~ THE SERVICE coordination AND SKILLS TRAINING CONTRACTOR ~~agencies~~ shall establish and publish written guidelines for closing cases. These guidelines shall respect and accommodate the cognitive and behavioral challenges following ~~traumatic~~ brain injury. Program participants shall be

treated sensitively and fairly in any case closure discussions and decisions.

- A. ~~The Traumatic Brain Injury Program~~ MINDSOURCE Director and the Board of Directors shall approve the written guidelines for closing cases. Reasons for case closure may include a case when a Program participant:
1. Has met his or her goals and elects to discontinue services;
 2. Has moved out of state;
 3. Cannot be located by the ~~care coordination agency~~ CONTRACTOR;
 4. Has been institutionalized under circumstances which preclude delivery of services for at least six months;
 5. Has been non-cooperative with, or abusive of, the care coordination agency staff and/or service providers to the extent that services cannot be delivered; or,
 6. Has died.
- B. When a case is closed, the program participant shall be provided written notification of this action whenever possible. and of his or her appeal rights and the process of how to appeal.

12.550 APPEALS AND GRIEVANCES {Rev. eff. 6/1/12}

Applicants and Program participants shall have the right to file grievances and appeals.

12.551 Grievance Process [Rev. eff. 7/1/17]

A "grievance" is an oral or written complaint or expression of dissatisfaction about any matter other than a decision that may be appealed. A grievance may address issues such as the quality of services provided, the person providing services, the timeliness of services, the accessibility of service locations, or the availability of staff.

1. Applicants and program participants shall have ninety (90) calendar days from the date of the incident to file a grievance expressing a complaint or dissatisfaction with any matter other than a decision that may be appealed.
2. The contractor shall accept oral and written grievances and shall document oral grievances in writing.
3. The contractor shall give applicants and program participants reasonable assistance in filing a grievance and completing procedural steps in the grievance process, upon request.
4. The contractor shall ensure that the individuals who make decisions on grievances are individuals who are not a subject of the grievance and who were not involved in any previous level of review or decision-making regarding the grievance.
5. The contractor shall provide a reasonable opportunity for the individual making the grievance to present information. in person as well as in writing.
6. The contractor shall resolve each grievance and provide written notice within thirty (30) calendar days from the date the contractor receives the grievance. The notice shall include the contractor's proposed resolution to the grievance, the individual's right to further grieve the contractor's proposed resolution to the MINDSOURCE ~~Colorado-Traumatic Brain Injury Program~~ Director or designee, and information on how to contact the Director or designee.
7. Applicants and Program participants shall have ninety (90) calendar days from the date of

the contractor's notice to submit their grievance to the Colorado Traumatic Brain Injury MINDSOURCE Program Director or his/her designee.

8. The grievance process shall be an informal dispute resolution process. The decision of the Colorado Traumatic Brain Injury Program MINDSOURCE Director or designee shall be final.

12.552 Appeal Process [Rev. eff. 6/1/12]

An "appeal" is a request to review a decision of a contractor to deny or revoke program eligibility or to deny, reduce, suspend or terminate the delivery of program services.

- A. The contractors performing eligibility determinations and providing program services shall provide written notice to applicants and Program participants of decisions adversely impacting the individual's eligibility and program services. The notice shall include the decision the contractor has made, the reasons for the decision, the individual's right to appeal the contractor's decision, and the appeal procedures.
- B. Applicants and Program participants shall have ninety (90) calendar days to file an appeal from the date of the contractor's notice.
- C. The contractor shall accept oral and written appeals, and shall document oral appeals in writing.
- D. The contractor shall give applicants and program participants reasonable assistance in filing an appeal and completing procedural steps in the appeal process, upon request.
- E. The contractor shall ensure that the individuals who make decisions on appeals are individuals who were not involved in any previous level of review or decision-making regarding the decision under appeal.
- F. The contractor shall provide a reasonable opportunity for the individual making the appeal to present information, in person as well as in writing.
- G. The contractor shall resolve each appeal and provide written notice within thirty (30) calendar days from the date the contractor receives the appeal. The notice shall include the contractor's decision regarding the appeal, the individual's right to a second level appeal to the Colorado Department of Human Services, Executive Director or his or her designee, and information on how to contact the Executive Director or his or her designee.
- H. Applicants and Program participants shall have ninety (90) calendar days from the date of the contractor's notice to file a second-level appeal with the Department of Human Services, Executive Director or his or her designee.
- I. The Executive Director or his or her designee shall have the right to additional information and may request oral argument or a hearing if it deems necessary.
- J. The applicant, program participant may represent himself/herself or use legal counsel or other spokesperson at a hearing.
- K. The decision of the Executive Director or his or her designee shall constitute final agency action.
- L. The contractor whose decision is under appeal shall participate in the appeals process, provide any documentation required, and implement any decision made by the Executive Director or his or her designee.
- M. The appeal process shall be conducted pursuant to Section 24-4-105 and 106, C.R.S.

Editor's Notes

History

Section 12.540 emer. rule eff. 06/06/2008.

Section 12.540 eff. 07/30/2008.

Section 12.200 eff. 08/01/2009.

Sections SB&P, 12.105, 12.200, 12.500 eff. 06/01/2012. Section 12.400 repealed eff. 06/01/2012.

Sections SB&P, 12.200-12.200.2, 12.200.4-12.200.7 eff. 05/01/2013.

Sections SB&P, 12.200-12.202.4 eff. 01/01/2016.

Sections 12.530, 12.551 eff. 07/01/2017.

Annotations

Rules 12.540.C. and 12.540.D. (adopted 01/05/2007) were not extended by Senate Bill 08-075 and therefore expired 05/15/2008.