

## COLORADO TRAUMATIC BRAIN INJURY PROGRAM

### "Table of Contents"

12.500	COLORADO TRAUMATIC BRAIN INJURY PROGRAM
12.510	INTRODUCTION
12.520	DEFINITIONS
12.530	ELIGIBILITY
12.540	SERVICES
12.541	Case Closure
12.550	APPEALS AND GRIEVANCES
12.551	Grievance Process
12.552	Appeal Process

## 12.500 COLORADO TRAUMATIC BRAIN INJURY PROGRAM

## 12.510 INTRODUCTION

These rules implement the Colorado Traumatic Brain Injury Program (Program) 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. ~~Individuals shall receive program services on a first come, first served basis.~~ THE TBI PROGRAM DIRECTOR, TBI BOARD OF DIRECTORS AND CONTRACTOR SHALL DETERMINE HOW TO BEST MANAGE THE WAIT LIST.

## 12.520 DEFINITIONS

~~%Applicant+~~means an individual for whom an application OR REFERRAL for services has been completed.

~~%Care Coordination+~~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. ~~Traumatic brain injury care coordination operates with an underlying premise that when individuals reach their optimal level of wellness and functional capability, everyone benefits: the individual and family being served, their community support systems, the healthcare delivery system, and insurance carriers. The primary functions of TBI care coordination are to:~~

- ~~\_\_\_\_\_ A. Maximize individual and family understanding and participation through education and support.~~
- ~~\_\_\_\_\_ B. Advocate for individual wellness and autonomy through advocacy, communication and identification of service resources.~~
- ~~\_\_\_\_\_ C. Optimize access to appropriate community services.~~
- ~~\_\_\_\_\_ D. Integrate and coordinate service delivery by multiple sources and to prevent fragmentation of services.~~

~~"Care Coordination Plan" means a written plan that identifies the specific services that will be coordinated for the program participant., and that is signed by the program participant or his/her designated personal representative.~~

~~%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.~~

~~%Designated personal representative+ means a parent of a minor, legal guardian or conservator, or other person who has been designated by an applicant or program participant to represent him or her.~~

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COLORADO DEPARTMENT OF HUMAN SERVICES  
STAFF MANUAL VOLUME 12  
SPECIAL PROJECTS

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DRAFT

## 12.520 DEFINITIONS (continued)

~~%Funding of last resort+means that the individual has no other funding source and that no other funding source is available that covers the program PURCHASED services the individual is requesting. An individual is not required to exhaust all private funds in order to be eligible for program services.—~~

~~%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 Director, Colorado Department of Human Services, 3520 W. Oxford Avenue, Denver, Colorado 80236; 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 damage INJURY to the brain caused by external 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 .force, including acceleration/deceleration injuries. This does not include brain injury caused by a congenital causation, degenerative diseases, surgical interventions or anoxia. There must be adequate medical or clinical documentation of the injury, and the injury must be of sufficient severity to produce partial or total disability as a result of impaired cognitive ability and/or physical function.—~~

~~%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

~~Individuals seeking program services or their legal guardian designated personal representatives shall complete an application form prescribed by the State Department. The applicant must provide his/her social security number for use as a unique client identifier.~~

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~~Applicants shall be subject to an intake and screening process to determine program eligibility. A contractor shall complete the intake and screening process.~~

As part of the application process, the applicant or his/her designated personal representative must sign a statement attesting to the accuracy of the information provided.

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COLORADO DEPARTMENT OF HUMAN SERVICES  
STAFF MANUAL VOLUME 12  
SPECIAL PROJECTS

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DRAFT

12.530 ELIGIBILITY (continued)

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

- A. The applicant has a traumatic brain injury; and,
- B. The applicant is A RESIDENT AND, IF 18 OR OLDER, LAWFULLY PRESENT IN COLORADO a legal Colorado resident. This includes legal immigrants but does not include illegal or undocumented aliens residing in the State; and,
- C. The Colorado Traumatic Brain Injury Program is the funding of last resort for the services the applicant is requesting; and,
- D. The applicant or his/her legal guardian designated personal representative agrees to subrogation WHEN PURCHASED SERVICES SUPPORTS ARE AVAILABLE; and,
- E. The applicant or his/her designated personal representative agrees to sign an authorization form to release protected health information for the purpose of allowing communication with and between the care coordination agency and all service providers listed in the care coordination plan; and,
- F. The applicant or his/her designated personal representative agrees to sign an authorization form to obtain protected health information if the contractor performing client intake and eligibility determines that this information is necessary to document the presence of a traumatic brain injury.

12.540 SERVICES

Rev. eff. 6/6/08 All program participants who receive program services shall receive care coordination services.

- A. Additional client PURCHASED services may be provided as program funds permit. Program services may include, but are not limited to:
  - 1. Community residential services;
  - 2. Structured day program services;
  - 3. Psychological and mental health services for the individual with the traumatic brain injury and the individual's family;
  - 4. Prevocational services;
  - 5. Supported employment;
  - 6. Companion services;
  - 7. Respite care;
  - 8. Occupational therapy;

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DRAFT

12.540 SERVICES (continued)

- 9. ~~Speech and language therapy;~~
  - ~~10. Cognitive rehabilitation;~~
  - ~~11. Physical rehabilitation; and,~~
  - ~~12. One-time home modifications.~~
  - ~~B. Program services shall not include institutionalization, hospitalization, or medications.~~
  - ~~C. Program services shall only be provided, as necessary, for a period of one year from the date services begin. A program participant who wants to receive services beyond one year may submit a new application for program services.~~
  - ~~D. Contractors shall provide program services. Contractors may sub-contract with service providers, with the approval of the Department.~~
- ~~The contractor providing care coordination services shall cooperatively develop a written transition plan with each program participant prior to the termination of the year of services. The transition plan shall identify the participant's needs for further services and support, and the resources that are available in the participant's community to assist in meeting his or her identified needs.~~

12.541 Case Closure

Add eff. 3/2/07 Care coordination 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 DIRECTOR AND THE Board OF DIRECTORS shall approve the written guidelines for closing cases.
- ~~B. A case may be closed when a program participant:~~
  - ~~1. Has met his or her goals and elects to discontinue services;~~
  - ~~2. Has moved out of state;~~

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COLORADO DEPARTMENT OF HUMAN SERVICES  
STAFF MANUAL VOLUME 12  
SPECIAL PROJECTS

---

12.541 Case Closure (continued)

~~3. Cannot be located by the care coordination agency after at least six attempts have been made over a period of at least two months;~~

~~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.~~

~~In the absence of one of the above criteria, a case may not be closed solely because a program participant exhibits behavior that is caused by his or her traumatic brain injury, such as forgetting scheduled appointments or difficulties communicating with the care coordinator.~~

~~C. When a case is closed, the program participant shall be provided written notification of this action, and of his or her appeal rights and the process of how to appeal.~~

12.550 APPEALS AND GRIEVANCES

Add eff. Applicants and program participants and their designated personal representatives shall have the right to file grievances and appeals.

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12.551 Grievance Process

Add eff. 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.

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A. Applicants and program participants and their designated personal representatives 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.

B. The contractor shall accept oral and written grievances, and shall document oral grievances in writing.

C. The contractor shall give applicants and program participants reasonable assistance in filing a grievance and completing procedural steps in the grievance process, upon request.

D. 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.

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DRAFT

12.551 Grievance Process (continued)

- E. The contractor shall provide a reasonable opportunity for the individual making the grievance to present information, in person as well as in writing.
- F. 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 Colorado Traumatic Brain Injury PROGRAM DIRECTOR Board or its designee, and information on how to contact the DIRECTOR Board or its designee.
- G. Applicants and program participants ~~and their designated personal representatives~~ shall have ninety (90) calendar days from the date of the contractor's notice to submit their grievance to the Colorado Traumatic Brain Injury PROGRAM DIRECTOR Board or its designee.
- H. The grievance process shall be an informational dispute resolution process. The decision of the Colorado Traumatic Brain Injury PROGRAM DIRECTOR Board or its designee shall be final.

12.552 Appeal Process

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 ~~and their designated personal representatives~~ 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.

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DRAFT

12.552 Appeal Process (continued)

- 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, Office of Appeals, and information on how to contact the Office of Appeals.
- H. Applicants and program participants ~~and their designated personal representatives~~ 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, Office of Appeals.
- I. The Office of Appeals shall have the right to additional information and may request oral argument or a hearing if it deems necessary.
- J. The applicant, program participant ~~or designated personal representative~~ may represent himself/herself or use legal counsel or other spokesperson at a hearing.
- K. The decision of the Office of Appeals 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 Office of Appeals.
- M. The appeal process shall be conducted pursuant to Section 24-4-105 and 106, C.R.S.

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