

3. A client who has been assigned to a higher Support Level shall have this assignment re-examined by the review panel annually or as determined by the Department, unless the panel determines that the client's condition necessitating a higher Support Level is unlikely to improve.
- D. The Department shall provide the CMA and the client, his or her legal guardian, authorized representative, or family member, as appropriate, with the written decision regarding the requested review of the client's Support Level within fifteen (15) business days after the panel meeting.
1. The results of the panel review for a client enrolled in the HCBS-DD waiver are conclusive.
  2. If a client enrolled in the HCBS-SLS waiver, his or her legal guardian, authorized representative, or family member, as appropriate, disagrees with the decision provided by the panel, the client may request a review by the Executive Director or his or her designee, within fifteen (15) business days after the receipt of the decision.
    - a. The Executive Director or his or her designee shall review the request and provide a written decision within fifteen (15) business days.
    - b. The decision of the Executive Director or his or her designee shall constitute the final agency decision and will be subject to judicial review pursuant to section 24-4-106, C.R.S.
- E. The client shall be notified, pursuant to the Department of Health Care Policy and Financing rules in section 8.057.2.A (10 C.C.R. 2505-10) when a waiver service is terminated, reduced, or denied. At any time, the client may pursue a Medicaid Fair Hearing in accordance with section 8.057.3.A (10 C.C.R. 2505-10).

**8.613 FAMILY SUPPORT SERVICES PROGRAM (FSSP)**

**A. ADMINISTRATION**

1. The Community Centered Board (CCB) shall administer the Family Support Services Program (FSSP), subject to available appropriations and according to the rules, regulations, policies and guidelines of the Department, local Family Support Council (FSC) and CCB.
2. The CCB shall ensure that the FSSP is implemented within its designated service area.
3. The CCB shall designate one (1) person as the contact for the overall implementation and coordination of the FSSP.
4. Referrals to the FSSP shall be made through the CCB pursuant to 10 CCR 2505-10, Section 8.607.
5. Nothing in these rules and regulations shall be construed as to prohibit or limit services and supports available to an individual with an Intellectual and Developmental Disability (IDD) or Developmental Delay and their families which are authorized by other state or federal laws.
6. The CCB, in cooperation with the local FSC, shall ensure that the FSSP is publicized within the designated service area.

- 
7. The CCB shall develop written policies and procedures for the implementation and ongoing operation of the FSSP, which must be kept on file and made available to the Department or the public, upon request.
- B. FAMILY SUPPORT COUNCIL (FSC)
1. The CCB shall assist its designated service area to establish and maintain an FSC pursuant to Section 25.5-10-304 C.R.S.
  2. The CCB shall establish an FSC roster that includes the names of members, type of membership and identifies the chairperson. The roster shall be available to the Department or the public, upon request.
  3. Composition of the FSC:
    - a. The majority of the members and the chairperson of each FSC shall be family members of an individual with an Intellectual and Developmental Disability (IDD) or Developmental Delay.
    - b. New members of the FSC shall be recruited from the service area. New members shall be approved by the current FSC and the board of directors of the CCB.
    - c. The members of the FSC shall receive written notice of their appointment.
    - d. The CCB shall ensure an orientation and necessary training regarding the duties and responsibilities of the FSC is available for all council members. The training and orientation shall be documented with a record of the date of the training, who provided the training, training topic, and names of attendees.
    - e. The size of the FSC shall be sufficient to meet the intent and functions of the council, but no fewer than five (5) persons, unless approved by the Department.
    - f. Each FSC shall establish the criteria for tenure of members, selection of new members, the structure of the council and, in conjunction with the CCB, a process for addressing disputes or disagreements between the FSC and the CCB. Such processes shall be documented in writing. Processes may include a request for mediation assistance from the Department.
  4. The FSC duties include providing guidance and assistance to the CCB on the following:
    - a. Overall implementation of the FSSP;
    - b. Development of the written annual FSSP report for the designated service area, as defined at Section 8.613.M;
    - c. Development of written procedures describing how families are prioritized for FSSP funding;
    - d. Development of written policy defining how an emergency fund is established, funded and implemented. The policy must include a definition of a short-term crisis or emergency and the maximum amount of funds a family may receive per event and/or year;

- e. Provide recommendations on defining the “other” service category within the parameters as defined in this part;
- f. Monitor the implementation of the overall services provided in the designated service area; and
- g. Provide recommendations on how to assist families who are transitioning out of the FSSP.

**C. ELIGIBILITY**

1. Any individual with an Intellectual and Developmental Disability (IDD) or Developmental Delay, as determined pursuant to Section 25.5-10-211, C.R.S., living with their family is eligible for the FSSP. Living with a family means that the individual's place of residence is with that family.
  - a. Living with family may include periods of time from one (1) day up to six (6) months during which time the individual is not in his or her primary residence because of transition into or out of the home.
  - b. The CCB, in cooperation with the local FSC, shall determine what constitutes a transition.
2. The family and eligible individual shall reside in the State of Colorado.
3. All eligible individuals 18 and older must provide proof of lawful presence in the United States to receive FSSP funding.
4. Eligibility for the FSSP does not guarantee the availability of services or supports under this program.

**D. WAITING LIST**

1. The CCB shall maintain an accurate and up-to-date waiting list of eligible individuals for whom Department funding is unavailable in the current fiscal year.
2. In cooperation with the local FSC, the CCB shall develop written procedures for determining how and which individuals on the waiting list will be enrolled into the FSSP.
3. Individuals receiving ongoing FSSP funding shall not be listed on the waiting list for the program.
4. Individuals determined to be prioritized for FSSP funding shall be served prior to individuals determined at a lower level of prioritization.
5. The CCB must inform eligible families of the program and waiting list procedures and offer assessment and enrollment onto either the waiting list or the program, based on the assessment and available appropriations.
6. Any individual on the waiting list for FSSP may receive emergency funding through the CCB through the FSSP, if the needs meet the parameters set by the FSC and the CCB.
7. Waiting lists shall not exist for any CCB that does not expend all FSSP direct service funds.

- 
- E. PRIORITIZATION FOR FAMILY SUPPORT SERVICES PROGRAM (FSSP) FUNDING
1. CCBs must ensure that families with the highest assessed needs shall be prioritized for FSSP state funding.
  2. CCBs, in conjunction with the FSC, will develop written procedures that describe how families shall be prioritized and notified of the prioritization process.
  3. The assessment process shall be applied equally and consistently to all families who are assessed.
  4. CCBs must distribute the prioritization process to families in their designated service area at the time the family requests FSSP funding, when the individual is placed on the waiting list, or upon request.
  5. The CCB must notify families in writing of the results of the assessment.
  6. All families, both on the waiting list and receiving FSSP services, shall be assessed for level of need on an annual basis or earlier if the family's circumstances change.
  7. The assessment must contain the following components:
    - a. The qualifying individual's disability and overall care need, which includes:
      - i. The type of disability or condition and the need and complexity of medical or personal care for the individual;
      - ii. The need for, frequency of, and amount of direct assistance required to care for the individual; and
      - iii. The types of services needed that are above and beyond what is typically needed for any individual.
    - b. The qualifying individual's behavioral concerns including how behaviors disrupt or impact the family's daily life, the level of supervision required to keep the individual and others safe, and the services and frequency required to help with the behaviors.
    - c. The family composition, which considers obligations and limitations of the parent(s), the number of siblings, disabilities of other family members living in the home, and the level of stability of the family, such as pending divorce or age and disability of parents.
    - d. The family's access to support networks, which includes the level of isolation or lack of support networks for the family, such as not having extended family nearby, living in rural areas or availability of providers.
    - e. The family's access to resources such as family income, insurance coverage, HCBS waivers, and/or other private or public benefits.
- F. DIRECT SERVICES
1. Services and supports available under the FSSP may be purchased from a variety of providers who are able to meet the individual needs of the family.

2. All services must be needed as a result of the individual's Intellectual and Developmental Disability (IDD) or Developmental Delay and shall not be approved if the need is a typical age-related need. Correlation between the need and the disability must be documented in the Family Support Plan (FSP).
3. All services must be provided in the most cost-effective manner, meaning the least expensive manner to meet the need.
4. All services shall be authorized pursuant to the FSP.
5. Services provided to the family through the FSSP shall not supplant third party funding sources available to the family including, but not limited to, public funding, insurance, or trust funds.
6. CCBs shall not charge a separate fee for assisting individuals to access services identified on the FSP.
7. FSSP funds shall not be used for any donation; religious , political , or otherwise or activities prohibited by law.
8. Direct Services
  - a. Assistive technology is equipment or upgrades to equipment, which are necessary for the individual with an IDD or Developmental Delay to communicate through expressive and receptive communication, move through or manipulate his or her environment, control his or her environment, or remain safe in the family home.
  - b. Environmental engineering is home or vehicle modification needed due to the individual's disability and is not a regular maintenance or modification needed by all owners. Modifications to the home or vehicle must be necessary due to the individual's IDD or Developmental Delay; or needed due to health and safety; or to allow the individual to attain more independence; and completed in a cost-effective manner. Cost-effective manner means the least expensive manner to meet the identified need. Home modifications are to be limited to the common areas of the home the individual with an IDD frequents, the individual's bedroom, and one bathroom. Other bedrooms and bathrooms shall not be modified. All devices and adaptations must be provided in accordance with applicable state or local building codes and/or applicable standards of manufacturing, design, and installation. Only homes or vehicles occupied and owned by the family where the eligible individual resides may be modified. Minor modifications may be made to rental units with the permission of the landlord. Rental modifications must be made in a way that the modification can be moved with the eligible individual during a change in residence.
  - c. Medical and dental items prescribed by a licensed medical professional qualified to prescribe such items and are needed to maintain or attain physical health. Medical, dental, and vision services, exams and procedures are available when not covered by another source.
    - i. Over the counter medications and vitamins are excluded, except as indicated at Section 8.800.4.D, when prescribed by a licensed medical professional qualified to write such prescriptions.

- d. Other: Services in this category must be identified in the FSP, are specific to the family, and are limited to:
  - i. A consultant and/or advocate to assist a family with accessing services outside of the CCB.
  - ii. Recreational needs of the individual with an IDD or Developmental Delay when the need of recreation is above and beyond the typical need due to the disability or delay. The cost of family recreation passes shall be limited to \$650 or one family pass, whichever is less, per fiscal year and shall be limited to use only at community recreation centers. The following items are specifically excluded under the FSSP and shall not be eligible for coverage:
    - 1) Entrance fees for zoos;
    - 2) Museums;
    - 3) Butterfly pavilion;
    - 4) Movie, theater, concerts;
    - 5) Professional and minor league sporting events;
    - 6) Outdoor play structures;
    - 7) Batteries for recreational items; and,
    - 8) Memberships to non-community gyms.
  - iii. Specialized services as identified by the FSC and CCB, included in their written policy and are available to any family receiving ongoing Family Support Services Program assistance in the service area.
- e. Parent and sibling support, which may include special resource materials or publications, cost of care for siblings, or behavioral services or counseling.
- f. Professional services are services which require licensure or certification to treat a human condition other than medical, dental or vision, and is provided to the individual with an IDD or Developmental Delay. Professional services must be provided by qualified, certified and/or licensed personnel in accordance with the standards and practices of the industry. Professional services may include related support items or activities which are recommended as part of the therapy with supporting documentation from the treating professional. Insurance expenses directly incurred by the individual with an IDD or Developmental Delay are included.
- g. Program expenses are services related to serving multiple families and are funded through the direct service line.
  - i. This service is not identified in the individual's FSP. This service is provided by the CCB for the benefit of multiple families.

- ii. Program expense is the maintenance, operation, or enhancement of a resource library that consists of an inventory of goods and equipment used to meet the needs of individuals with an IDD or Developmental Delay on a temporary basis.
  - iii. Program expense is the cost associated with participation with other community agencies in the development, maintenance, and operation of projects, supports or services that benefit individuals with an IDD or Developmental Delay.
  - iv. Program expense is the development or coordination of a training event for families.
  - v. Program expense is the cost of an event sponsored by the CCB for all eligible individuals and their families to meet other families to provide socialization and an opportunity to build a network of support.
  - vi. Program expense is the development and coordination of group respite.
  - vii. The FSC in conjunction with the CCB shall determine the maximum amount of direct services to be used for program expenses.
- h. Respite is the temporary care of an individual with an IDD that provides relief to the family.
- i. Transportation is the direct cost to the family that is higher than costs typically incurred by other families because of specialty medical appointments or therapies. Specialty medical appointments or therapies are defined as appointments needed due to the individual's IDD or Developmental Delay. The direct cost is the cost of transportation, lodging, food expense, and long-distance telephone calls to arrange for or coordinate medical services which are not covered by other sources.

## G. CASE MANAGEMENT

Case management is the coordination of services provided for individuals with an IDD or Developmental Delay that consists of facilitating enrollment, assessing needs, locating, coordinating, and monitoring needed FSSP funded services, such as medical, social, education, and other services to ensure non-duplication of services, and monitor the effective and efficient provision of services across multiple funding sources.

- 1. At minimum, the case manager is responsible for:
  - a. Determining initial and ongoing eligibility for the FSSP;
  - b. Development, application assistance, and annual re-evaluation of the Family Support Plan (FSP); and
  - c. Ensuring service delivery in accordance with the FSP.
- 2. Family Support Plan Requirements
  - a. Families enrolled into the FSSP shall have an individualized FSP which meets the requirements of an Individualized Plan, as defined in Section 25.5-10-202 and 25.5-10-211 C.R.S., and includes the following information:

- i. The name of the eligible individual;
  - ii. The names of family members living in the household;
  - iii. The date the FSP was developed or revised;
  - iv. The prioritized needs requiring support as identified by the family;
  - v. The specific type of service or support, how it relates to the family need and the individual's disability or developmental delay, and period which is being committed to in the FSP, including, when applicable, the maximum amount of funds which can be spent for each service or support without amending the FSP;
  - vi. Documentation regarding cost-effectiveness of a service or support, which can include quotes, bids, or product comparisons but must include the reason for selecting a less cost-effective service or support, when applicable.
  - vii. A description of the desired results, including who is responsible for completion;
  - viii. The projected timelines for obtaining the service or support and, as appropriate, the frequency;
  - ix. A statement of agreement with the plan;
  - x. Signatures of a family representative and an authorized CCB representative;
  - xi. The level of need;
  - xii. The length of time the funds are available; and
  - xiii. A description of how payment for the services or supports will be made.
- b. The FSP shall integrate with other Service Plans affecting the family and avoid, where possible, any unnecessary duplication of services and supports. One FSP, inclusive of all eligible individuals with IDD or Developmental Delay shall be maintained per family.
  - c. The FSP shall be reviewed at least annually or on a more frequent basis if the plan is no longer reflective of the family's needs.
    - i. Any changes to the provision of services and supports identified in the FSP are subject to available funds within the designated service area.
    - ii. Any decision to modify, reduce or deny services or supports set forth in the FSP, without the family's agreement, are subject to the requirements in Section 8.605.

#### H. MANAGEMENT AND GENERAL ACTIVITIES

Management and general activities are the financial and corporate administration of the CCB specific to FSSP requirements by the Department.



**I. EMERGENCY FUND**

1. Each CCB shall establish an emergency fund that may be accessed by any individual eligible for the FSSP when needed due to an unexpected event that has a significant impact on the individual or family's health or safety and impacts the family's daily activities.
2. Any individual with an IDD or Developmental Delay determined by the CCB and living with family shall be eligible to receive emergency funds regardless of the enrollment status of the family.
3. The CCB in conjunction with the Family Support Council shall develop written policies and procedures regarding the Emergency Fund. At a minimum the policies and procedures must:
  - a. Define the purpose of the emergency fund;
  - b. Define an unexpected event and significant impact;
  - c. Describe the process for accessing emergency funds;
  - d. Describe how funding determination is made;
  - e. Give a timeline of the determination of the request;
  - f. Define the maximum funding amount per family or per event; and
  - g. Describe how families will be notified of the decision in writing.

**J. BILLING AND PAYMENT PROCEDURES**

1. The CCB shall develop and implement policies, procedures, and practices for maintaining documentation for the FSSP and reporting information in the format and timeframe established by the Department.
2. Families shall maintain and provide either receipts or invoices to the CCB documenting how funds provided to the family through the FSSP were expended. The CCB shall maintain supporting documentation capable of substantiating all expenditures and reimbursements made to providers and/or families, which shall be made available to the Department upon request.
  - a. When the CCB purchases services or items directly for families, the CCB shall maintain receipts or invoices from the service provider and documentation demonstrating that the provider was paid by the CCB. Receipts or invoices must contain, at a minimum, client and/or family name, provider name, first and/or last date of service, item(s) or service(s) purchased, item(s) or service(s) cost, amount due or paid.
  - b. When the CCB reimburses families for services or items, the CCB shall ensure the family provides the CCB with receipts or invoices prior to reimbursement. The CCB shall maintain receipts or invoices from the families, and documentation demonstrating that the family was reimbursed by the CCB. The CCB must ensure all receipts or invoices provided by the families contain, at a minimum, client and/or family name, provider name, first and/or last date of service, item(s) or service(s) purchased, item(s) or service(s) cost, amount paid.

- c. When the CCB provides funding to the families for the purchase of services or items in advance, the CCB shall notify the families that they are required to submit invoices or receipts to the CCB of all purchases made prior to the close of the State Fiscal Year. The CCB must ensure that all receipts or invoices are collected and maintained from the family, as well as documentation demonstrating that the family received funding from the CCB. The CCB must ensure all receipts or invoices provided by the families contain, at a minimum, client and/or family name, provider name, first and/or last date of service, item(s) or service(s) purchased, item(s) or service(s) cost, amount paid.
3. The CCB shall submit to the Department, on a form and frequency prescribed by the Department, information which outlines individual family use of the FSSP.
4. The CCB shall report only FSSP expenditure data in the format and timeframe as designated by the Department.

**K. PROGRAM EVALUATION**

1. The CCB, in cooperation with the local Family Support Council, shall be responsible for evaluating the effectiveness of the FSSP within its designated service area on an annual basis.
2. The evaluation may be based upon a family satisfaction survey and shall address the following areas:
  - a. Effectiveness of outreach/public awareness including:
    - i. The demographics of participants in comparison to demographics of the service area; and
    - ii. How well the program integrates with other community resources.
  - b. Satisfaction and program responsiveness to include:
    - i. Ease of access to the program;
    - ii. Timeliness of services;
    - iii. Effectiveness of services;
    - iv. Availability of services;
    - v. Responsiveness to family concerns;
    - vi. Overall family satisfaction with services; and
    - vii. Recommendations.
  - c. Effective coordination and utilization of funds to include:
    - i. Other local services and supports utilized in conjunction with the FSSP; and
    - ii. Efficiency of required documentation for receipt of the FSSP.

3. The CCB, and participating families as requested, shall cooperate with the Department regarding statewide evaluation and quality assurance activities, which includes, but is not limited to providing the following information:
  - a. The maximum amount any one family may receive through the FSSP during the fiscal year; and
  - b. The total number of families to be served during the year.

**L. PERFORMANCE AND QUALITY REVIEW**

1. The Department shall conduct a Performance and Quality Review of the FSSP to ensure that it complies with the requirements set forth in these rules.
2. A CCB found to be out of compliance with these rules through the results of the Performance and Quality Review, shall be required to develop a corrective action plan, upon written notification from the Department. A corrective action plan must be submitted to the Department within ten (10) business days of the receipt of the written request from the Department. A corrective action plan shall include, but not limited to:
  - a. A detailed description of the action to be taken, including any supporting documentation;
  - b. A detailed time frame specifying the actions to be taken;
  - c. Employee(s) responsible for implementing the actions; and
  - d. The implementation timeframes and a date for completion.
3. The CCB shall notify the Department in writing, within three (3) business days if it will not be able to present the Corrective Action Plan by the due date. The agency shall explain the rationale for the delay and the Department may grant an extension, in writing, of the deadline for the agency's compliance.
  - a. Upon receipt of the corrective action plan, the Department will accept, modify or reject the proposed corrective action plan. Modifications and rejections shall be accompanied by a written explanation.
  - b. In the event that the corrective action plan is rejected, the agency shall re-write the corrective action plan and resubmit along with the requested documentation to the Department for review within five (5) business days.
  - c. The agency shall implement the corrective action plan upon acceptance by the Department.
  - d. If corrections are not made within the requested timeline and quality specified by the Department, funds may be withheld or suspended.

**M. FAMILY SUPPORT SERVICES PROGRAM (FSSP) ANNUAL REPORT**

1. Each CCB shall submit an annual FSSP report to the Department by October 1 of each year. The report will contain two sections.
  - a. The first section must describe how the CCB plans to spend the FSSP funds in the current fiscal year and will include:

- i. Description of the outreach/public awareness efforts for the coming year;
  - ii. Description of anticipated special projects or activities under the Program Expense service category; and
  - iii. Goals with measurable outcomes for any changes to the FSSP.
- b. The second section of the annual report will describe how the FSSP funds were spent in the previous year and must contain:
- i. The program evaluation outcomes for the previous year as described in this section;
  - ii. The total amount of funds expended by service category;
  - iii. The total number of families served and the total number of families placed on the waiting list;
  - iv. Detailed information for the Program Expense service category to include:
    - 1) The total number of families that utilized services under the Program Expense category;
    - 2) The specific services provided; resource library, special projects, training events, social events, or group respite;
    - 3) How these services enhanced the lives of families in the community and the total number of families who participated in each project; and
    - 4) The report shall include the total number of staff, total of staff cost, and other costs associated with the Program Expense service category.
  - iv. A description of how the annual FSSP report was distributed to eligible families; and
  - v. The signature of Family Support Council (FSC) members, the FSSP Coordinator, and the CCB Executive Director.

#### **8.614 GASTROSTOMY SERVICES**

Gastrostomy services shall not be provided by any person who is not otherwise authorized by law to administer gastrostomy services except under the supervision of a licensed nurse or physician pursuant to the requirements of these rules.

- A. An individual who is not authorized by law to administer gastrostomy services may administer gastrostomy services to an individual requiring gastrostomy services only if a licensed nurse or physician first:
- 1. Develops a written individualized protocol for the individual receiving gastrostomy services which is based on the individual's physician orders, meets the requirements of section 8.614.E, and is updated each time that the physician's orders change for that individual's gastrostomy services;