



April 2, 2020

The Honorable Jared Polis
Governor of the State of Colorado

Cc: Lieutenant Governor Dianne Primavera; Kim Bimestefer, HCPF Executive Director; Bonnie Silva, Director, HCPF Office of Community Living; Lauren Larson, OSPB Director

Dear Governor Polis,

On behalf of Alliance and its more than 60 member organizations across the state of Colorado, we thank you for your leadership to prevent the spread of COVID-19 in our state, support small businesses whose solvency is in jeopardy, and ensure that essential services continue to operate.

Our members provide long-term supports to people with intellectual and developmental disabilities (IDD) in every Colorado county. These providers ensure the health, safety, and wellbeing of citizens who are at heightened risk during the pandemic. Many people with IDD receive support with their most basic daily tasks and often require access to 24/7 supports.

We believe that IDD providers are considered to be critical businesses under the following provisions of the March 25th Public Health Order:

- **Section 8. Providers of Basic Necessities to Economically Disadvantaged Populations:**
 - Human Services providers whose function includes the...care, protection, custody and oversight of individuals both in the community and in State-licensed residential facilities; those operating community shelters and other critical human services agencies providing direct care or support
- **D. Critical Government Functions. [...]**
 - Services to at-risk populations and Vulnerable Individuals (*defined therein as anyone with a disability*)

As such, we thank you for recognizing the critical importance of the services we provide, which are more important now than ever. As the COVID-19 outbreak continues to spread, we believe that more people with IDD and the employees who support them will be impacted. If staffing and supplies are not sufficient to maintain ongoing supports in the person's home, many individuals with IDD will need to be moved to hospitals and other health care settings to receive care.

Recently enacted federal legislation, the Families First Coronavirus Response Act (FFCRA), recognizes the essential nature of work conducted by health care providers. The FFCRA allows health care providers and emergency responders to be exempted from the expanded sick and family leave benefits otherwise established by the FFCRA in order to ensure adequate staffing to meet the needs of the public.

To assist employees and employers in understanding their rights under FFCRA, the U.S. Department of Labor (DOL) recently issued [a guidance document](#) and [temporary rule](#). The DOL states that "a health care provider is anyone employed at any doctor's office, hospital, health care center, clinic, post-secondary educational institution offering health care instruction, medical school, local health department or agency, nursing facility, retirement facility, nursing home, home health care provider, any facility that performs laboratory or medical testing, pharmacy, or any similar institution, employer, or entity." The DOL also states that, "This also

includes any individual that the highest official of a state or territory, including the District of Columbia, determines is a health care provider necessary for that state's or territory's or the District of Columbia's response to COVID-19."

Although IDD providers do not provide health care services in the traditional sense, the services and supports they do provide are essential to ensuring that Coloradans with IDD can remain in their homes during the pandemic and utilize traditional health care services only when medically necessary. As we [recently saw in New York](#), a lack of capacity in the community can result in further taxing an already over-burdened health system.

While most IDD providers will elect to offer the expanded paid leave options to their employees, it may be necessary for some to be exempted in order to ensure adequate capacity to continue the functions of these critical businesses. **As such, we ask that you follow the lead of Governors Mike DeWine (OH) and Lawrence Hogan, Jr. (MD) and issue guidance clarifying that:**

"Community Centered Boards (CCBs) and Program Approved Service Agencies (PASAs) provide services similar to traditional health care services cited in DOL FFCRA guidance, which are critical to supporting Colorado's health care infrastructure during the COVID-19 emergency. Therefore, employees of CCBs and PASAs are considered to fall within the umbrella of 'health care providers' that may be exempted from the paid sick leave and expanded family and medical leave provisions of the Families First Coronavirus Response Act."

We are eager to work with your Office, HCPF, and CDLE as we navigate this crisis. Please feel free to reach out to jrael@alliancecolorado.org if you would like to discuss these items further.

Sincerely,



Cheryl Wicks
President
Alliance Board of Directors



Josh Rael
Executive Director
Alliance

Alliance is a statewide association of Community Centered Boards (CCBs) and Program Approved Service Agencies (PASAs) that provide services and supports to individuals with intellectual and developmental disabilities.

Alliance members serve over 10,000 individuals with IDD and employ 3,200 DSPs and case managers throughout Colorado.
www.AllianceColorado.org

