

## CHAPTER 44

### ENVIRONMENTAL MODIFICATIONS AND SPECIALIZED EQUIPMENT FOR MEDICAID HOME AND COMMUNITY-BASED WAIVER SERVICES

**Section 1. Authority.** This Chapter is promulgated by the Department of Health pursuant to Wyoming Statute 9-2-102 and the Wyoming Medical Assistance and Services Act at Wyoming Statutes 42-4-101 through -121.

#### **Section 2. Purpose and Applicability.**

(a) This Chapter shall apply to and govern Medicaid reimbursement of environmental modification and specialized equipment services provided under the Wyoming Medicaid Comprehensive Waiver and Wyoming Medicaid Supports Waiver, (herein collectively referred to as the “DD Waivers”).

(b) This Chapter, in addition to Chapters 45 and 46 of the Department of Health’s Medicaid Rules, shall govern services and provider requirements of the DD Waivers.

(c) The Division of Healthcare Financing, hereafter referred to as the “Division,” may issue provider manuals and provider bulletins to providers or other affected parties to interpret the provisions of this Chapter. Such provider manuals and provider bulletins shall be consistent with and reflect the policies contained in this Chapter. The provisions contained in provider manuals and provider bulletins shall be subordinate to the provisions of this Chapter.

(d) Wyoming’s currently approved Centers for Medicare and Medicaid Services (CMS) Comprehensive and Supports Waiver Applications and the Comprehensive and Supports Waiver Service Index apply to this Chapter.

(e) The requirements of Title XIX of the Social Security Act, 42 C.F.R. Part 441, Subpart G and the Medicaid Sate Plan apply to this Chapter.

#### **Section 3. General Provisions.**

(a) Except as otherwise specified in Chapter 1 of the Department of Health’s Medicaid Rules, or as defined in this Section, the terminology used in this Chapter is the standard terminology and has the standard meaning used in accounting, health care, Medicaid, and Medicare.

(b) “Case manager” means individual who provides case management services, as established in Chapter 45, Section 9.

(c) “Relative” means a participant’s biological, step, or adoptive parent(s).

#### **Section 4. Environmental Modifications – Scope and Limitations.**

(a) Environmental modifications to a participant’s residence shall meet at least two of the following criteria:

- (i) Be functionally necessary;
  - (ii) Contribute to a person's ability to remain in or return to his or her home and out of an intermediate care facility for individuals with an intellectual or developmental disability (ICF/IID) or other institutional setting; and
  - (iii) Be necessary to ensure the person's health, welfare, and safety.
- (b) Environmental modifications may include, but are not limited to:
- (i) The installation of ramps;
  - (ii) The installation of grab-bars;
  - (iii) Widening of doorways;
  - (iv) A bathroom modification that is the most cost effective option to meet the needs of the participant.
  - (v) Installation of specialized electric or plumbing systems necessary to accommodate specialized medical equipment or supplies, which are necessary for the welfare of the participant;
  - (vi) Modifications that address accessibility limitations;
  - (vii) Modifications that address fire code requirements; and
  - (viii) Fences for health or safety concerns.
- (A) Fences shall not take the place of required supervision of the participant.
- (B) Payment for fences shall not exceed the cost for 200 linear feet of the material needed to ensure the safety of the participant, and shall be consistent with the neighborhood standard.
- (c) Environmental modifications that shall not be covered include, but are not limited to:
- (i) Modifications to a residence that are of general utility or are primarily for the convenience of persons other than the participant, such as caregivers or family members;
  - (ii) Modifications to a residence that are not of direct medical or functional benefit to the participant;
  - (iii) Installation or replacement of carpeting;
  - (iv) Roof repair or replacement;

- (v) Central air conditioning;
- (vi) New carports, porches, patios, garages, porticos, decks, or repairing such structures;
- (vii) Pools, spas, hot tubs, or modifications to install pools, spas, or hot tubs;
- (viii) Landscaping or yard work, landscaping supplies, pest exterminations, or removal of yard items;
- (ix) Modifications that are part of new construction costs;
- (x) Modifications that add to the square footage of the home except bathroom modifications as specified in (b)(iv) of this Section;
- (xi) Window replacements;
- (xii) Repairs or replacement of structural building components;
- (xiii) Modifications to a residence when the cost of such modifications exceeds the value of the residence before the modification; and
- (xiv) Any adaptations that are covered by another source, such as a state independent living center or a vocational rehabilitation provider.

(d) Covered modifications of rented or leased homes shall be those extraordinary alterations that are uniquely needed by the individual, and for which the property owner would not ordinarily be responsible.

(i) Such modifications shall require written approval from the homeowner or landlord.

(ii) Modifications shall include the minimum necessary to meet the functional requirements of the participant.

(iii) A participant shall not purchase home accessibility adaptations to adapt living arrangements that add value to a home that is owned or leased by providers of waiver services.

(e) The homeowner shall be responsible for general maintenance of environmental modifications.

(f) All services shall be provided in accordance with State or local building codes.

#### **Section 5. Environmental Modifications Approval Process.**

(a) The plan of care team may request environmental modifications during the six-month or annual plan of care meeting. Environmental modification requests submitted at other times during the plan of care year may be submitted if significant health, safety, or access

concerns are identified.

(b) When the plan of care team identifies an environmental concern or need, the case manager shall submit the following information to the Division for the overall scope of the project:

- (i) A description of the environmental concern or need;
- (ii) A description of how the environmental concern is related to the participant's diagnosed disability, based on an assessment from an occupational or physical therapist; and
- (iii) A description of how the environmental modification will:
  - (A) Contribute to the participant's ability to remain in, or return to, his or her home;
  - (B) Increase the participant's independence;
  - (C) Address the participant's accessibility concerns; and
  - (D) Address health and safety needs of the participant.

(c) The case manager shall work with the participant or legally authorized representative to identify two certified environmental modification providers, and contact the providers to obtain quotes. Quotes shall include:

- (i) A detailed description of the work to be completed, including drawings or pictures when appropriate;
- (ii) An estimate of the material and labor needed to complete the job, including costs of clean up;
- (iii) An estimate for building permits, if needed;
- (iv) An estimated timeline for completing the job;
- (v) Name, address, and telephone number of the provider; and
- (vi) Signature of the provider.

(d) The case manager shall submit the service authorization section of the individualized plan of care to the Division, including:

- (i) The assessment completed by the professional team or the written approval from the Division to proceed with quotes; and
- (ii) Two (2) quotes completed by certified environmental modification providers.

(A) If two quotes cannot be obtained, the case manager shall include an explanation as to why only one quote was submitted.

(B) The Division may review any request that does not include more than one quote.

(e) The Division may schedule an on-site assessment of the environmental concern, including an evaluation of functional necessity with appropriate professionals under contract with the Division. To ensure cost effectiveness, the Division may use a third party to assess the proposed modification and need for the modification. The assessment shall include:

(i) A statement verifying that the request meets at least two (2) of the criteria pursuant to Section 4(a) of this Chapter; and

(ii) A description of the modification that will address the environmental concern, including the minimum quality and quantity of material needed, and estimated cost range for modification.

(f) The Division shall notify the participant and case manager of the approval, including which quote was approved.

(i) Modifications shall be completed by the date stated in the individualized plan of care unless otherwise authorized by the Division.

(ii) If the cost of a modification increases due to a significant change in costs of material, the case manager shall submit a revised quote detailing the change in cost.

(iii) The case manager shall not give copies of the individualized plan of care to the environmental modification provider. The environmental modification provider shall receive a copy of the approved service authorization printout.

(g) Upon completion of the environmental modification, the provider shall have the homeowner sign the original quote verifying that the modification is complete.

(i) The environmental modification provider shall submit the signed quote to the participant's case manager.

(ii) If the homeowner has concerns with the modification, they shall contact the case manager. The case manager shall inform the Division of the concerns.

(iii) The Division or its representative agent shall complete an on-site review of the modification to determine if it is completed as described in the original quote.

(h) The Division or its representative agent may conduct on-site visits or any other investigations deemed necessary prior to approving or denying the request for an environmental modification.

(i) The Division reserves the right to deny requests for environmental modifications

that are not within usual and customary charges or industry standards.

(j) A relative, as defined in Section 3 of this Chapter, may become certified to provide this service in accordance with Chapter 45 of the Department of Health's Medicaid Rules. If a relative provider quotes an environmental modification, the case manager shall always include one (1) other quote from a non-relative environmental modification provider.

(k) In accordance with Chapter 45 of the Department of Health's Medicaid Rules, provider agencies shall be certified by the Division to provide environmental modifications prior to providing the service.

(l) There is a lifetime cap of \$20,000 for environmental modifications per family, regardless of waiver. Cap begins for purchases made after July 1, 2013 on previous Wyoming waivers. Critical health or safety service requests that exceed the lifetime cap are subject to available funding and approval by the Extraordinary Care Committee (ECC).

#### **Section 6. Specialized Equipment – Scope and Limitations.**

(a) Specialized equipment shall be functionally necessary and meet at least two of the following criteria:

(i) Be necessary to increase ability to perform activities of daily living or to perceive, control, or communicate with the environment in which the person lives;

(ii) Be necessary to enable the participant to function with greater independence and without which the person would require institutionalization; and

(iii) Be necessary to ensure the person's health, welfare, and safety.

(b) The individualized plan of care shall reflect the need for equipment, how the equipment addresses health, safety, or accessibility needs of the participant, or allows them to function with greater independence, and include specific information on how often the equipment is used and where it is used.

(i) The case manager shall inquire with Medicaid, Medicare, or a participant's other insurance carrier to see if the requested equipment is covered under their plans.

(ii) Medicaid is a payer of last resort, and shall not pay for specialized equipment that can be paid through another source.

(c) Specialized equipment may include but is not limited to:

(i) Devices, controls, or appliances, specified in the individualized plan of care, that enable participants to increase their ability to perform activities of daily living;

(ii) Devices, controls, or appliances that enable the participant to perceive, control or communicate with the environment in which they live;

(iii) Items necessary for life support or to address physical conditions along with the ancillary supplies and equipment necessary to the proper functioning of such items;

(iv) Durable and non-durable medical equipment not available under the Medicaid state plan that is necessary to address participant functional limitations; and

(v) Necessary medical supplies not available under the Medicaid state plan or other insurance held by the participant.

(d) Items reimbursed with waiver funds are in addition to medical equipment and supplies furnished under the Medicaid state plan and exclude those items that are not of direct medical or remedial benefit to the participant. All items shall meet applicable standards of manufacture, design, and installation.

(e) Specialized equipment shall not include the following, even if prescribed by a licensed health care professional:

(i) Items paid for under the Medicaid state plan or under Early Periodic Screening, Diagnosis, and Treatment (EPSDT);

(ii) Educational or therapy items that are an extension of services provided by the Department of Education;

(iii) Items of general use that are not specific to a disability, or that would normally be available to any child or adult, including but not limited to furniture, recliners, desks, shelving, appliances, bedding, bean bag chairs, crayons, coloring books, other books, games, toys, videotapes, CD players, radios, cassette players, tape recorders, television, VCRs, DVD players, electronic games, cameras, film, swing sets, other indoor and outdoor play equipment, trampolines, strollers, play houses, bike helmets, bike trailers, bicycles, health club memberships, merry-go-rounds, golf carts, four wheelers, go-carts, scooters, vehicles, automotive parts, and motor homes;

(iv) Pools, spas, or hot tubs;

(v) Computers and computer equipment, including the CPU, hard drive, and printers, except for situations pursuant to (c) of this Section;

(vi) Items that are not proven interventions through either professional peer reviews or evidence based studies; and

(vii) Communication items such as telephones, pagers, pre-paid minute cards and monthly services.

(f) Repairs on specialized equipment shall be completed by the manufacturer, if a warranty is in place.

(g) Requests for repairs on specialized equipment not covered by warranty may be submitted to the Division for approval.

(h) Sale of specialized equipment shall not profit the participant or family.

**Section 7. Specialized Equipment Approval Process.**

(a) The team may submit requests for specialized equipment during the six-month or annual plan of care meeting. Specialized equipment requests submitted at other times during the plan of care year may be submitted if significant health, safety, or access concerns are identified.

(b) Approval for specialized equipment shall require:

(i) Prior authorization from the Division; and

(ii) A recommendation from a therapist or professional with expertise in the area of need. The recommendation shall include:

(A) A description of the functional need for the specialized equipment;

(B) How the specialized equipment will contribute to a person's ability to remain in or return to his or her home and out of an ICF/IID or other institutional setting;

(C) How the specialized equipment will increase the individual's independence and decrease the need for other services;

(D) How the specialized equipment addresses accessibility, health, or safety needs of the participant;

(E) Documentation that the participant has the capability to use the equipment;

(F) Documentation that the waiver is the payer of last resort;

(G) A description of how equipment shall be delivered and who will train the person and providers on the equipment; and

(H) Documentation of two (2) quotes for the purchase of the equipment, including a maximum markup on the equipment of 20%.

(I) The quotes may include a detailed description of the need and costs for expert assembly of the equipment in addition to the 20% markup.

(II) The quotes may include a detailed description of the need and cost for training on the specialized equipment in addition to the 20% markup.

(III) If two (2) quotes cannot be obtained, an explanation as to why only one (1) quote was submitted shall accompany the request.

(IV) The Division may review any request that does not include more than one (1) quote.



(c) The Division may schedule a review of the specialized equipment quote, including an evaluation of functional necessity, with appropriate professionals under contract with the Division. The review shall include a statement verifying that the request meets at least two (2) of the criteria pursuant to Section 6(a) of this Chapter.

(d) If the participant has an Individualized Education Plan (IEP) or Individual Family Service Plan (IFSP), the case manager shall submit a copy of that document, along with documentation as to why the equipment is not sent home with the participant, or a reason why the equipment is necessary at home but not at school.

(e) The Division may request documentation that a less expensive, comparable alternative to requested equipment or supplies is not available or practical. If a more cost-effective alternative is determined to be available, the Division shall deny the original request or specify that only the less costly equipment or supplies are approved.

(f) Equipment purchases shall not exceed \$2,000 per year. If an item needed exceeds that amount, the team may request an exception to the cap through the ECC. The Division may require an assessment for specialized equipment needs by a Certified Specialized Equipment (CSE) professional. The assessment is funded as part of the \$2,000 cap. Insurance on items is not covered by the waiver but may be purchased by the participant separately.

(g) Electronic technology devices are only allowed once every five (5) years and like items shall not be purchased during those five (5) years. Electronic technology devices used as augmentative and alternative communication devices are exempt from this five (5) year limitation if accompanied by a letter of necessity from a Speech Language Pathologist.

(h) In accordance with Chapter 45 of the Department of Health's Medicaid Rules, provider agencies shall be certified by the Division to provide specialized equipment.

#### **Section 8. Interpretation of Chapter.**

(a) The order in which the provisions of this Chapter appear is not to be construed to mean that any one provision is more or less important than any other provision.

(b) The text of this Chapter shall control the titles of its various provisions.

**Section 9. Superseding Effect.** This Chapter supersedes all prior rules or policy statements issued by the Division, including Provider Manuals and Provider Bulletins, which are inconsistent with this Chapter.

**Section 10. Severability.** If any portion of this Chapter is found to be invalid or unenforceable, the remainder shall continue in full force and effect.

#### **Section 11. Incorporation by Reference.**

(a) For any code, standard, rule, or regulation incorporated by reference in these rules:

(i) The Department has determined that incorporation of the full text in these rules would be cumbersome or inefficient given the length or nature of the rules;

(ii) The incorporation by reference does not include any later amendments or editions of the incorporated matter beyond the applicable date identified in subsection (b) of this section; and

(iii) The incorporated code, standard, rule, or regulation is maintained at the Department and is available for public inspection and copying at cost at the same location.

(b) Each code, rule, or regulation incorporated by reference in these rules is further identified as follows:

(i) Referenced in Section 2 of this Chapter is title XIX of the Social Security Act, 42 C.F.R. Part 441, Subpart G, incorporated as of the effective date of this Chapter and can be found at <http://www.ecfr.gov>.

(ii) Referenced in Section 2 of this Chapter is Wyoming Medicaid's State Plan, incorporated as of the effective date of this Chapter and can be found at <http://www.health.wyo.gov/healthcarefin/medicaid/spa>.

(iii) Referenced in Section 2 of this Chapter is Wyoming's Comprehensive and Supports Waiver Applications, incorporated as of the effective date of this Chapter and can be found at <https://www.health.wyo.gov/behavioralhealth/dd/waivers/>.

(iv) Referenced in Section 2 of this Chapter is Wyoming's Comprehensive and Supports Waiver Service Index, incorporated as of the effective date of this Chapter and can be found at <https://www.health.wyo.gov/behavioralhealth/dd/comprehensive-support-waivers/>.