

# Provider Training Series

## Chapter 45, Sections 23 and 24, Participant Costs, Funds, and Personal Property

### (Module #11)

Wyoming Department of Health  
Division of Healthcare Financing  
DD Waiver Provider Training Series



Welcome to the Division of Healthcare Financing (Division), Home and Community Based Services (HCBS) Section's Provider Training Series for Chapter 45 of the Department of Health's Medicaid Rules (Rules). These rules govern the home and community based Comprehensive and Supports Waivers, hereinafter referred to as the DD Waivers.

Chapter 45, Section 15(d) requires waiver providers to complete training in specific areas prior to delivering services. Individuals who complete all of the Series training modules and associated training summaries will be in compliance with this specific requirement. Please note that providers are responsible for ensuring they meet **all** training requirements, which are established throughout Chapter 45, prior to delivering waiver services.

This module covers Sections 23 and 24, which address the notice of costs to the participant, as well as participant funds and personal property.

## Purpose of This Training



To clearly establish the provider's obligation to notify participants of the costs they will incur during the provision of services, and outline the provider's responsibility to respect and protect a participant's money and personal property.

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## Training Agenda

- ▶ Reason for, and requirements of, the notice of costs
- ▶ Policies and procedures that are required to protect a participant's funds
- ▶ Prohibited practices related to a participant's funds
- ▶ Policies and prohibited practices that apply to a participant's personal property

By the end of this module, the following topics will have been introduced and explained.

- The importance of notifying participants of the costs they will be responsible to pay, and the specific requirements of the notification.
- The policies and procedures that providers are required to develop and implement in order to ensure that a participant's money is protected.
- Specific practices related to the expenditure of participant funds that are prohibited.
- And finally, how the policies and prohibited practices are applied to a participant's personal property.

Please note that, for the purpose of these trainings, providers include provider staff and case managers, unless there is a specific need to make a distinction.

## Choice



**Freedom to make choices is a human right.** Participants need to know up front if they will be required to pay additional fees while receiving services, and how their property will be protected and respected.

A theme throughout all of the Division's provider training modules is the fact that home and community-based waiver services are based on the tenet that people have the freedom to make choices that impact their lives. It should go without saying that, even if a participant has a legally authorized representative or representative payee, participants should have choice in how they spend their money. As established in Section 4, this is one of the basic rights that participants have. Participants need to know up front if they will be required to pay additional fees while receiving services from a provider, and how their property will be protected and respected. When they have this information, they are able to make an informed choice on if the charges are something they are willing to pay so they can make the ultimate decision on if the provider meets their needs.

## Notice of Costs



Providers must notify participants of costs and terms of payment.

Chapter 45, Section 23 establishes that providers must develop and implement a system to notify participants and legally authorized representatives of costs they will have to pay for services and items, and the terms of payment. The notice must be given in writing.

## When is Notice Required?

- ▶ Before services begin
- ▶ Before changes
- ▶ With adequate time to review notice



Providers must give a written notice of costs before a participant starts receiving services. Any time there is a change in those costs, participants must receive notification of those changes before they occur, and with enough time for them to review the notice and determine if they wish to continue to receive services from the provider, or look elsewhere for services.

Section 23 does not give a specified time by which notification must be given, but best practice would suggest that the provider should give written notice at least 60 to 90 days before a change to costs is implemented in order to give the participant and legally authorized representative time to review the notice, and choose to transition to another provider if necessary.

## Notice Requirements

- ▶ Participant will not be charged for services or items covered through other funding sources.
- ▶ Who is responsible when a participant's personal items are damaged or missing.
- ▶ How the participant will be compensated when others use the environment and eat food paid for by the participant.

Section 23 establishes specific requirements that providers must include in their notice of participant costs.

- A provider's notice must specify that the participant will not be charged for services or items that are covered through other funding sources. This includes, but is not limited to items that are necessary to provide habilitation services and transportation that is included as part of the cost of services. Please refer to the Comprehensive and Supports Waiver Service Index (Service Index) for more information on service rates that include transportation costs.
- A provider must specify who is responsible if a participant's personal property is damaged or goes missing while they are receiving services. For clarity, the provider may want to distinguish between scenarios such as the participant damaging their own property, other participant's damaging or stealing the property, and property that is damaged or goes missing as a result of a provider or provider staff member neglecting to provide adequate supervision, or property damage that is a consequence of the provider or provider staff member escalating a participant's behavior.
- If a participant lives in a shared or group setting that is owned or operated by the provider, the provider must explain if and how the participant will be reimbursed or compensated when visitors in that shared setting use products or eat food that has been purchased by the participant.

## Notice Examples



- ▶ Room and board
- ▶ Extraordinary transportation
- ▶ Support with technology
- ▶ Moving expenses
- ▶ Staff expenses for activities requiring supervision

Every provider is required to identify the costs that will be passed on to participants. Some examples of these costs may include:

- Room and board - If there is a set rent amount or formula that is used to determine rent for a provider owned setting, this may be included in the notice of costs. The cost of rent must be included in the participant's lease agreement, which is required in rule. If the provider charges a board fee, the amount of the fee, as well as what the fee covers (food, supplies, phone and cable) should be included in the notice.
- Reasonable transportation expenses are included in most service reimbursement rates. However, if a provider is asked to drive a participant to the airport, and that airport is 150 miles away, the provider may choose to charge the participant for the additional wear and tear and fuel that is associated with the trip. The participant must be notified of this potential cost. Please note that transportation for out-of-town medical appointments cannot be billed to the participant.
- If a participant chooses to move, the provider may charge the participant if the provider is responsible for the labor involved in moving the participant's belongings. This potential cost should be disclosed. Please keep in mind that if a participant moves at the request of the provider, the provider cannot charge the participant for moving expenses.
- Participants regularly attend events and activities in their communities. Occasionally a participant can navigate their community independently, but often times a participant needs support. If a participant needs support when they go to a movie, work out at the



- gym, or attend a sporting event, the provider or provider staff member who supports them will need to gain entrance to the activity. If this cost is passed on to the participant, the participant must be notified in advance. The provider will need to be very clear as to what the participant will be expected to pay in these situations.
  - It is important to note that many local businesses will grant free access to support staff. Providers should work with local businesses to determine if this is an option. It is also important to note that, while participants may need to pay an entry fee, they should never be required to pay for food. The participant may need to buy the movie ticket for the provider or staff member, but they should never pay for snacks. If a participant needs support at a restaurant, the provider or staff member should offer that support while drinking a glass of water, unless the provider or staff member purchases their own meal.

## Participant Funds



Providers that serve as a representative payee, manage a participant's money, receive benefits or money on behalf of a participant, or temporarily safeguard a participant's money must comply with Section 24.

Section 24 establishes rules for providers that take responsibility for a participant's funds or personal property. This includes providers that serve as a participant's representative payee, manage a participant's money, receive benefits or money on behalf of a participant, or temporarily safeguard a participant's money or personal property.

## What Does Managing a Participant's Money Mean?

If a provider maintains a cash or checking account, and has been given authorization from the participant, legally authorized representative, or representative payee to pay the participant's bills and support the participant in discretionary spending decisions, then the provider manages the participant's money.

To clarify, a provider can manage a participant's money even though the provider does not serve as the participant's representative payee and has no legal authority or obligation to do so. If a provider maintains a cash or checking account, and has been given authorization from the participant, legally authorized representative, or representative payee to pay the participant's bills and support the participant in discretionary spending decisions, then the provider manages the participant's money.

## Required Policies and Safeguards

- ▶ How informed consent for expenditures will be given;
- ▶ How records may be accessed;
- ▶ How the funds of different participants will be segregated;
- ▶ Safeguards to assure that funds are used as intended;
- ▶ How interest will be credited to accounts;
- ▶ Charges for managing funds; and
- ▶ How missing funds will be replaced.

If a provider takes responsibility for a participant's funds, the provider must develop and implement written policies and procedures to safeguard these funds. The provider must share these policies and procedures with the participant and legally authorized representative before agreeing to manage a participant's funds.

Policies and procedures must include:

- Information on how the participant or legally authorized representative will give informed consent on the expenditure of funds.
- An explanation of how the participant or legally authorized representative can access their records, including their account balances, list of expenditures and deposits, earned interest, and any reporting that has been generated or submitted to outside entities.
- An explanation of how the participant's funds will be separated from the funds of other participants, for the purposes of reporting to the participant, legally authorized representative, and regulatory agencies such as the Social Security Administration or the Division. Best practice suggests that if a provider maintains any kind of financial account for more than one participant, that each participant have separate rather than commingled accounts.
- Information on the safeguards that the provider will implement to ensure that the funds are used for designated and appropriate purposes. This may be accomplished by ensuring that the documentation of each expenditure includes an accounting of what was purchased, and who requested that the purchase be made.

- Information on how interest will be credited to accounts. If participants have separate accounts, this explanation will be much simpler than explaining how interest is divided among commingled accounts.
- If the provider will be charging a fee for managing funds, including the allowable fee for serving as a representative payee, how these fees are calculated and charged. Please remember that this information should also be included in the Notice of Cost.
- If, under provider management, funds go missing or expenditures cannot be justified, an explanation of how the provider will compensate the participant.

Please be aware that providers who serve as representative payees must meet the requirements established by the Social Security Administration (SSA). Chapter 45 of the Department of Health's Medicaid Rules do not replace SSA requirements.

## Prohibited Practices

- ▶ Using funds as a reward or punishment;
- ▶ Using funds as payment for damage
- ▶ Using funds to purchase provider inventory or services;
- ▶ Using funds as a loan; and
- ▶ Commingling funds with provider accounts



Section 24 lists some clear-cut prohibited practices related to participant funds.

- Participant funds cannot be used as a punishment or reward.
- Participant funds cannot be used to pay for damages, unless there is notification in a lease or other written agreement, there is evidence that shows that the participant was directly responsible for the damages, the rationale is documented, and the participant or legally authorized representative gives written informed consent to make restitution for the damages.
  - One crucial exception is that participants cannot be charged for damages, even if they are directly responsible, if the damages are a result of lack of appropriate supervision. For example, John is a participant who lives in a group home. His IPC states that, when he is escalated, he needs one on one support and interaction until he de-escalates. John recently got in an argument with his roommate, and is showing signs of escalated behavior. A provider staff member takes John into their office so he can de-escalate. The staff member leaves the office to take a phone call, even though John is still visibly agitated. John throws a laptop across the room, breaking it. John's IPC clearly stated that he needed one on one support during times of agitation. Since the staff member did not provide this support, John cannot be charged for the damage to the laptop.
- Participant funds cannot be used to purchase supplies, inventory, or other services for the provider.

- Providers are not allowed to charge a participant for waiver services that the participant has refused. Participants have the right to refuse services. For example, John refuses his Community Support Services, and chooses to stay home instead. Let's face it...we all need the occasional day off. John's provider cannot bill him for the service that he refused.
- Participant funds shall not be loaned to providers or provider staff members for any reason. The Division has been made aware of several instances of providers or staff members asking a participant to pay for a tank of gas or loan them money for a meal. This practice is absolutely prohibited. This behavior is considered exploitation, and will not be tolerated. Providers that employ staff members must ensure that all staff members are aware that this is absolutely inappropriate.
- Providers must ensure that participant funds are kept separate from provider monies and accounts.
- Finally, providers that are representative payees must follow the rules established by the Social Security Administration for representative payees. Non-representative payee providers must ensure that participant funds are kept separate.

## Participant Property



Section 24 relates to a participant's personal property as well as the participant's money.

Although Section 24 focuses on a participant's funds, this section applies to a participant's personal property as well.



## Policy Requirements and Prohibited Practices Apply to Property Too!

- ▶ Policy Requirements
  - ▶ How missing property will be replaced.
- ▶ Prohibited Practices
  - ▶ Use property as a reward or punishment;
  - ▶ Use property as payment for damages; and
  - ▶ Use property as a loan.

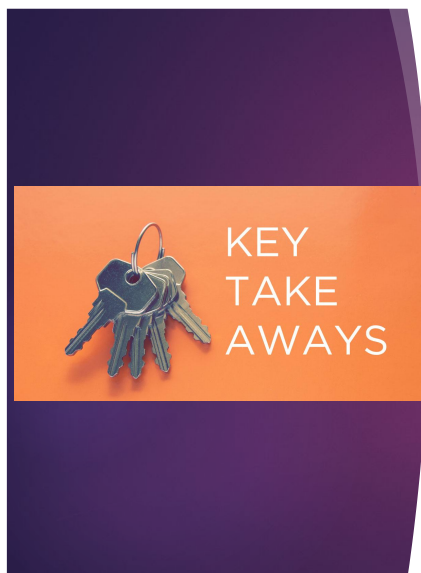
Many of the policies that providers are required to develop and implement are specific to participant funds. However, there are policy requirements that relate to a participant's personal property as well.

- Providers must have and implement a policy that explains how a participant will be reimbursed or how a participant's property will be replaced if the property goes missing in a provider owned or operated setting, or while the provider is delivering services. This is a good time to remind providers that participants have a right to sleeping and living quarters that have doors that can be locked to keep their property secure.

Prohibited practices apply to a participant's personal property as well.

- Participant property cannot be used as a punishment or reward. If a participant's right to access their property is restricted, the restriction must meet the criteria established in Chapter 45, Section 4.
- A participant's property cannot be used as payment for damages. For example, if John breaks his roommate's Xbox, the provider cannot require John to give his Xbox to his roommate as payment.
- Finally, just as participant funds must not be loaned to providers or provider staff members for any reason, a participant's property must not be loaned out either. Providers and provider staff member should never ask or accept the loan of a phone, video game, article of clothing, or any other property that belongs to a participant. Likewise, providers and provider staff members should never ask a participant for

- temporary lodging in their home. These actions are also considered exploitation.



1. Providers are required to give the participant advance notice of any fees the participant will be charged.
2. Providers must develop and implement policies related to participant funds and property.
3. Providers who manage participant funds must comply with Medicaid Rules and, if applicable, rules established by the SSA.
4. Misuse of participant funds and property may be considered exploitation, and will not be tolerated.

As we end this training, we'd like to review some of the key takeaways:

1. Providers are required to give the participant advance notice of any fees the participant will be charged. This notice must be given in writing before the participant starts receiving services, and any time there is a change in those costs.
2. Providers must develop and implement policies related to participant funds and property. It isn't enough just to have a policy. It must be followed. The provider must share these policies and procedures with the participant and legally authorized representative before agreeing to manage a participant's funds. Policies and procedures apply to property as well. Providers must have and implement a policy that explains how a participant will be reimbursed or how a participant's property will be replaced if the property goes missing in a provider owned or operated setting, or while the provider is delivering services.
3. Providers who manage participant funds must comply with the rules established in Chapter 45. Please remember that providers who serve as a representative payee must meet the requirement established by the SSA. Rules established in Chapter 45 do not replace SSA requirements.
4. Misuse of participant funds and property may be considered exploitation and will not be tolerated.

# Questions???

## Contact your Provider or Benefits and Eligibility Specialist

<https://health.wyo.gov/healthcarefin/hcbs/contacts-and-important-links/>

Thank you for participating in the training on participant costs, funds, and personal property. If you have questions related to the information in this training, please contact your Division representative. Contact information can be found by clicking on the link provided in the slide.

**Don't read this section as part of the live presentation**

*Please be sure to complete a summary of this training so that you can demonstrate that you received training on the rights of participants receiving services.*