

Community Choices Waiver

Community Choices Waiver Agreement

Wyoming Department of Health
Division of Healthcare Financing
Home and Community-Based Services Section
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Good afternoon. My name is Patrice Chesmore and I am a Benefits and Eligibility Specialist for the Home and Community-Based Services Section of the Division of Healthcare Financing. Thank you for joining us today.

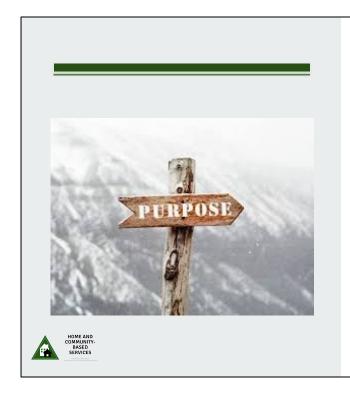
Acronyms and Abbreviations

- → HCBS Home and Community-Based Services
- → Division Division of Healthcare Financing
- → Department Wyoming Department of Health
- → CCW Community Choices Waiver
- → CMS Centers for Medicare and Medicaid Services



The Medicaid system in general, and the home and community-based services program in particular, uses a lot of acronyms. Before we start today's training, let's get some of those out of the way.

- We will often refer to the HCBS Section or HCBS program. HCBS stands for home and community-based services. We also refer to just HCB, which simply stands for home and-community based.
- The HCBS Section is organized under the Division of Healthcare Financing, which is a Division of the Wyoming Department of Health. We will sometimes refer to the Division or Department, which means Division of Healthcare Financing, or Department of Health.
- The Community Choices Waiver is most commonly referred to as the CCW or CCW program.
- Finally, we will occasionally refer to the Centers for Medicare and Medicaid Services. We will use CMS when referring to this federal agency.



Explain the CCW
Agreement and how
it establishes case
manager
requirements

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Since the administration of the CCW was moved under the HCBS Section, our staff members have received many questions related to why we impose specific standards or requirements. The purpose of this training is to dive into the CCW Agreement that has been approved by CMS, walk through its various components, and explain how the agreement establishes the requirements to which the HCBS Section is holding case managers accountable.

Training Agenda

- → Explain the purpose of a home and communitybased waiver
- → Review person-centered planning
- → Discuss the components of the CCW Agreement
- → Review case manager resources and how they are informed by the CCW Agreement

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

- First, we will explain the purpose of home and community-based waivers.
- Next, we will review person-centred planning, which is a foundation of home and community-based waivers.
- Then we will dig into the components of the CCW Agreement, and provide guidance on where you can find information within the document.
- Finally, we will review some of the resources available to case managers, and how these resources come directly from the information found in the CCW Agreement.

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Choice



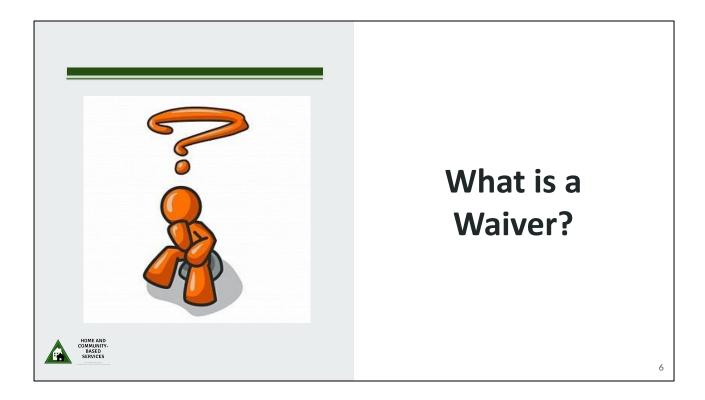
Choice is a basic tenet of home and community-based waiver services.



You hear us say it at the beginning of every training. Choice is a basic tenet of home and community-based waiver services. Participants must have the freedom to choose the services they receive, who provides those services, where they live, with whom they spend time, and what they want for their future. Having choice is paramount to human dignity.

We remind you of this at the beginning of every training because choice is the absolute foundation on which the CCW is built. Without choice, home and community-based services take on the flavor of institutional care. If a case manager or other service provider is able to make decisions based on what they feel "is best" for a participant, that provider or case manager has violated everything that home and community-based services promote.

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Before we dive into the CCW Agreement, let's take a step back and talk more generally about HCBS waivers.

Waivers Allow States to Waive Certain Requirements

- → Statewideness (Section 1902(a)(1))
- → Comparability of Services (Section 1902(a)(10)(B))
- → Income and Resource Rules
 Applicable in the Community
 (Section 1902(a)(10)(C)(i)(III))



HCBS first became available in 1983 when Congress added section 1915(c) to the Social Security Act, giving States the option to receive a waiver of Medicaid rules governing institutional care. Within broad federal guidelines, states can develop HCBS waivers to meet the needs of people who prefer to get long-term care services and supports in their home or community, rather than in an institutional setting.

States can waive certain Medicaid program requirements under HCBS waivers, including statewideness, comparability of services, and income and resource rules.

State Assurances

- → Administrative authority
- → Level of care
- → Qualified providers
- → Service plan
- → Health and welfare
- → Financial accountability



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In order for a waiver to be approved by CMS, a state must meet very specific requirements, and is expected to have systems in place to measure and improve its performance in meeting assurances that are outlined in rule. CMS pays half the bill for waiver services, so they want to make sure that the program they put their money toward is doing what it is intended to do.

- In order to meet the administrative authority assurance, the Medicaid State Agency, which in the State of Wyoming is the Department of Health, must make sure that the Division, and all of the contractors that have a part in administering the waiver, are doing their jobs.
- Eligible individuals must demonstrate the need for a level of care that would meet the state's eligibility requirements for services in an institutional setting. In order to meet the level of care assurance, the Division must evaluate and reevaluate a person's level of care to make sure they meet the institutional level of care eligibility requirements. The federal government can terminate the waiver if the Division doesn't follow its own eligibility requirements.
- States can offer a variety of services under an HCBS Waiver program. In order to
 meet the qualified providers assurance, the Division must make sure that services
 established in the CCW Agreement are provided in accordance with the service
 definitions and delivered by qualified providers.
- In order to meet the service plan assurance, the Division must ensure that service plans are person-centered and meet the needs of the participant.
- The Division must have a system for assuring each participant's health and welfare.
- Finally, the Division must have a system to make sure that the per person cost of

 waiver services is not more than the cost of institutional services, which, for the CCW program is a nursing facility.

Every year, the Division must submit a report to CMS that details the number of participants who were served, the type and number of service units they used, and the total amount the Division paid for these services. Additionally the Division must provide information that demonstrates that all required assurances were met. If the assurances weren't met, the Division must submit a quality improvement plan that identifies how they will overcome challenges in order to meet the assurances in the future.



Regulatory documents are documents that contain information essential to rules, compliance, and procedure. As such, the CCW Agreement is a regulatory document. You can find the CCW Agreement on the Public Notices, Regulatory Documents, and Reports page of the HCBS Section website under...you guessed it...the Current Waivers tab. The approval of the waiver, which is issued by CMS, can also be found on this page. The CCW Agreement is the Division's contract with the federal government, and establishes details for the program. Case managers should have a general understanding of this document since it provides the foundation for the CCW program.

The document itself is extremely long...almost 200 pages. Rather than printing it out, we recommend that you save it to your desktop or, better yet, just pull it up from the website when you need it. If you are looking for something specific, you can use the Ctrl+F function to search for keywords within the document.

42 CFR 441.301(c)(1)



The individual will lead the person-centered planning process where possible. ...In addition to being led by the individual receiving services and supports, the person-centered planning process:

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42 CFR 441.301(c) establishes, in part, what must be included in a request for a waiver program. This federal rule is very clear that HCBS waivers must include a person-centered planning process and resulting person-centered service plans. Case managers must follow person-centered planning processes and develop a plan that meets the requirements outlined in federal law.



Components of the CCW

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The HCBS Section often refers to the CCW Agreement, and occasionally provides citations on where to find a waiver requirement, but we haven't really discussed the layout of this very important document. So let's dig into the CCW Agreement, its various components, and how it can be navigated.

The Application (Module 1)

- → Includes
 - Formal request to operate the CCW
 - Brief description of waiver's goals, objectives, organization, and service delivery
 - Public comment process

Module 1 is the initial section of the application. It contains the Division's formal request to operate a 1915(c) HCBS waiver, including the request that specific Medicaid requirements be waived. This module also includes a brief description of the waiver's goals, objectives, organization, and service delivery methods. It contains the fundamental assurances and additional federal requirements that apply to the operation of a waiver. The Division's public comment process, a summary of the comments received, and the Division's response is also documented in this section.

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Appendix A - Waiver Administration and Operations

"What entities are involved in the operation of the waiver?"

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Appendix A covers waiver administration and operations, and answers the question "What entities are involved in the operation of the waiver?" Appendix A identifies the state agency that is responsible for the day-to-day operation of the waiver, along with other entities that are involved in its operation.

The Division distributes some waiver operational responsibilities to other entities.

- Level of care evaluations are delegated to the Public Health Division to conduct LT101 evaluations.
- The Division contracts with Telegen, a Quality Improvement Organization, to conduct
 a peer review of skilled nursing services before they are authorized or delivered. Peer
 reviews are conducted by a registered nurse. They ensure that services are medically
 necessary, and that the Division is using public resources effectively.
- The enrollment of qualified providers is delegated to HTG Technology Group. They
 assist providers in the provider enrollment and application process. CNSI, which
 maintains the Benefit Management System, processes provider claims for
 reimbursement.
- The Division maintains a memorandum of understanding with the Division of Aging to conduct initial and periodic reviews to verify that service providers maintain compliance with applicable provider qualification standards.
- The Division contracts with ACES\$ to be the Financial Management Services agency to support the employers of record for participant-directed waiver services.

Appendix B - Participant Access and Eligibility

"Who receives waiver services?"

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Appendix B addresses participant access and eligibility, and answers the question "Who receives waiver services?"

- The target group or groups that will be affected by this waiver is specified in this appendix. For the CCW, this is individuals who are 65 or older, or individuals with a disability, as defined by the Social Security Administration, who are between the ages on 19 and 64.
- A cost limit can be applied in order to deny eligibility of an otherwise eligible individuals. The CCW does not have an individual cost limit, meaning that we do not keep a wait list and, if a participant meets eligibility requirements, they will not be denied entrance to the CCW program.
- The Division must identify the number of individuals who will be served in the waiver, as well as how this number will be managed. The information for the CCW can be found in Appendix B-3.
- The Division must also identify the Medicaid eligibility groups that will be served on the waiver, and how post-eligibility treatment of income will be addressed. This is a very complicated section that addresses the financial and income eligibility, and can be found in Appendix B-4 and B-5.
- One of the main eligibility requirements for HCBS waiver programs is the need for an institutional level of care. Appendix B-6 addresses all of the level of care information. In this appendix, the Division outlines that the LT101 is the assessment tool used to determine level of care, that public health nurses must perform the assessment, and that the assessment must be performed annually.
- 42 CFR §441.302(d), establishes that, when an individual requires an institutional level of care, the individual must be informed of feasible alternatives under the

- waiver, and be given the choice of either institutional or home and community-based services. In Appendix B-7 the Division states that case managers provide information on the various alternatives, and document the participant's choice in the service plan.
- Finally, the Division must ensure that participants with limited English proficiency have meaningful access to the waiver. The Division maintains a contract with a translation and interpretation provider that offers translation services for documents and telephonic interpretation in over 160 languages, free of charge. This information is included in Appendix B-8.

Appendix C - Participant Services

"What services does the waiver offer?"

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Appendix C addresses participant services, and is designed to answer the question "What services does the waiver offer?" In this appendix, the Division establishes the service definitions, limitations on the amount, frequency, or duration that apply to each service, and the provider qualification for each service. The definitions are found in Appendix C-1 and the provider qualifications are found in C-3, so these two sections are presented together as a combined C1/C3 section. The information contained in these sections is the information that is refined and presented in the CCW Service Index.

Appendix C-2, which can be found in the CCW Agreement after the entirety of the C1/C3 section, captures the Division's policies concerning who is subject to criminal history and abuse registry screenings, and what those screenings entail. This section also addresses policies related to facilities in which waiver services can be provided. Since CCW services can be provided in assisted living facilities, ALF standards are covered in this section. Appendix C-2 also addresses payments to legally responsible individuals for the provision of personal care, and to relatives or legal guardians for the provision of services. Currently the CCW states that the state does not make payment to legally responsible individuals for furnishing personal care or similar services. However, in response to stakeholder feedback during the COVID-19 public health emergency, the Division used emergency Appendix K authority to authorize a participant to hire their spouse to provide Personal Support Services under the participant-directed service delivery option as long as the spouse is not the participant's legal guardian and is not authorized to make financial decisions on behalf of the participant, such as a being the financial Power of Attorney or having bank signing authority. This provision of the CCW will be updated when the next amendment is made to allow spouses to provide this service once the public health emergency expires.

When additional limits are placed on waiver services, they are captured in C-4; however, the CCW does not impose additional limits outside of what is explained in the service definition found in C-1. Finally Appendix C-5 explains how residential and non-residential settings comply with federal HCB Settings requirements at 42 CFR 441.301(c)(4)-(5) and associated CMS guidance. The state is almost in full compliance with federal requirements, and assures CMS that the state will assure ongoing compliance of all home and community-based settings.

Appendix D - Participant Centered Planning and Service Delivery

"How are participant needs identified and addressed during the service plan development process?"

"How does the state monitor the delivery of waiver services?"

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Appendix D explains the Division's person-centered planning process and service delivery. In this appendix, the Division describes how the service plan is developed and how the state monitors the implementation of the service plan and the participant's health and welfare. This appendix answers two questions: "How are participant needs identified and addressed during the person-centered service plan development process?" and "How does the state monitor the delivery of waiver services?"

A requirement of every waiver is is that a participant must have a document that addresses their needs; however, the name of this document varies from state to state, waiver to waiver. Appendix D-1 establishes the simple fact that the CCW refers to this document as the service plan, and that it is the responsibility of a case manager to develop this plan. Case manager qualifications, including specific conflict-free requirements, are also covered in this appendix. As a reminder, conflict-free case management, which is federally required, separates the assessment and coordination of a participant's services from the delivery of those services. The goal is to limit any conscious or unconscious bias a case manager or agency may have, and ultimately promote the participant's choice and independence.

Appendix D-1 is a fairly lengthy appendix, and addresses several other areas as well.

- Subsection D-1-b establishes that conflict free requirement by stating that entities or individuals who have responsibility for service plan development may not provide other direct waiver services to the participant.
- Subsection D-1-c details how case managers will support the participant in being engaged in the service planning process.
- Subsection D-1-d and e explain in further detail how the case manager develops the

- service plan and addresses participant risk. The Division amends this section as the
 Division updates processes within the Electronic Medicaid Waiver System. These
 sections focus on assessed need, so it is important to remember that participants
 should be selecting and receiving services based on what they need...not on what
 they would like to have, and certainly not based on the needs of other individuals in
 their household. For example, the participant cannot receive frozen meals that will
 feed other individuals who live in their home.
- Subsection D-1-f specifically outlines how the case manager assists the participant in making an informed choice among providers.
- Subsections D-1-g through i address how the service plan is submitted for Division approval, and how often it must be reviewed.

Appendix D-2 addresses service plan monitoring, and establishes the case manager's role and responsibility in monitoring the service plan implementation and the participant's ongoing health and welfare. The information found in this appendix has been carried over into the CCW Service Index as part of the case manager service definition.

Appendix E - Participant Direction of Services

"What authority do participants have to direct some or all of their waiver services?"

"How are participants supported in directing their services?"

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Appendix E discusses the participant-directed service delivery model, and is designed to answer the questions: "What authority do participants have to direct some or all of their waiver services?" and "How are participants supported in directing their services?" This appendix permits the Division to specify the opportunities that participants have to direct and manage their waiver services. Appendix E-1, which has 13 subsections, establishes that participants of the CCW who use this option will have decision making authority over their employees and their budget, and makes this service available to individuals who live in their own residences or the home of a family member. Currently, the CCW offers this delivery model to participants subject to the participant demonstrating understanding and capability to manage the activities and responsibilities associated with participant direction of services, which is determined by the case manager. The Division feels strongly that a person is presumed capable, unless a court order that designates a person as incompetent is in place. Therefore, the Division will revise this requirement in the next CCW amendment, and allow this option for every interested participant without additional limitations.

Appendix E-1 addresses that a legal representative or other person selected by the participant can act as the employer of record, establishes Personal Support Services as the only service available under this service delivery model, and explains the role of ACES\$, the state's contracted Financial Management Service. Voluntary and involuntary termination of participant direction are also covered in the appendix.

Appendix E-2 provides more specific information on the participant's decision making authority over their employees and participant-directed budget.

Appendix F - Participant Rights

"How are the participant's rights protected?"

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Appendix F discusses participant rights, and addresses the question "How are the participant's rights protected?" In this appendix, the Division describes how participants are afforded the opportunity to request a fair hearing, and other resources that are available for them to resolve disputes or address their complaints and grievances.

Appendix G - Participant Safeguards

"What safeguards has the state established to protect participants from harm?"

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Appendix G establishes participant safeguards, and addresses the question: "What safeguards has the state established to protect participants from harm?" In this appendix, the Division describes how providers and the Division will respond to critical incidents, and sets the standards for restraints and restrictive interventions.

Appendix G-1 specifically addresses requirements for reporting critical incidents, which include abuse, neglect, exploitation, unexpected death, restraint usage, and unauthorized uses of restrictive interventions. This appendix goes on to establish the case manager's role in providing participant education on their rights and responsibilities, as well as the Division's responsibility to review and provide oversight related to critical incidents. Please remember that reporting requirements established in the CCW are in addition to any reporting requirements established by licencing agencies.

Appendix G-2 establishes requirements for performing restraints. Personal, chemical, and mechanical restraints are only permitted in the delivery of services provided in an assisted living or nursing care facility, so the rules related to restraint usage are managed by the Division of Aging. However, this section establishes the role that the case manager plays in ongoing service plan monitoring activities in order to identify changes in the participant's condition or circumstances, screen for potential risks or concerns, and evaluate the effectiveness of the service plan in meeting the participant's needs. Case managers must report the unauthorized use or misapplication of restraints as a critical incident.

Appendix G-2 also establishes requirements for imposing restrictive interventions. Limits on the participant's full access to the greater community, privacy, independence in making life

choices, freedom to control their own schedules and activities, access to food, or ability to have visitors of their choosing at any time may be permitted in the delivery of assisted living facility services, adult day services (health model), and respite services delivered in an assisted living or nursing care facility, but must follow the criteria established in this appendix.

The Division does not permit the use of seclusion, and this prohibition is identified in Appendix G-2.

Finally, criteria for medication administration, which is allowed only by licensed nurses authorized to do so under the Wyoming Nurse Practice Act, is established in G-3.

Appendix H - System Improvement

"How will we use the information we collect to improve the waiver program?"

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Appendix H addresses system improvement, and explains the mechanisms the Division will use to engage in systems improvement activities based upon the information it gathers from the discovery and remediation strategies described throughout the application. This appendix answers the question "How will we use the information we collect to improve the waiver program?"

In order to receive approval of the CCW, CMS must determine that the Division has made satisfactory assurances concerning the protection of participant health and welfare, financial accountability and other elements of waiver operations. Renewal of an existing waiver is contingent on CMS finding that the assurances have been met. When completing the waiver application, the Division must specify how it has designed the waiver's critical processes, structures and operational features in order to meet these assurances. Quality improvement is a critical operational feature that an organization employs to continually determine whether it operates in accordance with the approved design of its program, meets statutory and regulatory assurances and requirements, achieves desired outcomes, and identifies opportunities for improvement.

Appendix I - Financial Accountability

"How does the state maintain financial accountability in the waiver?"

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Appendix I addresses financial accountability, and is designed to answer the question: "How does the state maintain financial accountability in the waiver?" In this appendix, the Division specifies how it makes payments for waiver services, ensures the integrity of these payments and complies with applicable requirements concerning payments and federal financial participation. The methodology used to establish rates is also included in this appendix.

Appendix J - Cost Neutrality Demonstration

"Does the waiver meet statutory cost-neutrality requirements?"

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Appendix J establishes the cost neutrality of the CCW, and answers the question "Does the waiver meet statutory cost-neutrality requirements?"

In its application and each year during the period that the CCW operates, the Division must demonstrate that the waiver is cost neutral. This means the average per participant expenditures for the waiver and Medicaid State Plan must not cost more than the average per person costs of furnishing nursing facility and other Medicaid State Plan services to individuals in a nursing facility. This is the most techy portion of the CCW, and explains how the Division projected overall expenditures, average usage, and average days in services. This appendix includes a projection of the service utilization and expenses that will be experienced over the 5 years of the CCW. When the Division reports to CMS each year, CMS will refer to this appendix to determine if the Division's actual utilization was within an acceptable 10% deviation of its projections.

Quality Improvement

- → Discovery
- → Roles and Responsibilities
- → Sampling Approach
- → Remediation



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As we mentioned earlier, in order for a waiver to be approved by CMS, a state must meet very specific requirements, and is expected to have systems in place to measure and improve its performance in meeting assurances that are outlined in rule. These assurances address important dimensions of waiver quality, such as assuring that service plans are designed to meet the needs of waiver participants and that there are effective systems in place to monitor participant health and welfare.

With the exception of Appendix E, F, and J, each appendix includes a quality improvement section that identifies the specific performance criteria that the Division will measure and report to CMS. Each quality improvement section must provide information on four components - discovery, remediation, the sampling approach, and roles and responsibilities.

The Discovery section identifies the actual data that will be measured, as well as the source of that data, such as information gathered from the Electronic Medicaid Waiver System (EMWS) or participant surveys. This data is typically reflected as a ratio that includes the performance that is to be measured as the numerator, over the full universe of the data as the denominator. For example, in Appendix G, the Division is required to demonstrate that it identifies, addresses, and seeks to prevent instances of abuse, neglect, exploitation, and unexplained death. In the Quality Improvement section of Appendix G, the Division has stated that it will report on the percentage of participants who indicate that they have received education on how to report abuse, neglect, and exploitation. The number of participants who indicate they have received this education is divided by the total number of participants in order to get this percentage.

The Quality Improvement section also identifies the agency that is responsible for collecting the data, how often that data will be collected, and how much data will be reviewed. Typically the Division reviews 100% of the data that is available, but will occasionally use a sample of the data to determine performance.

CMS understands that the Division will not meet all performance measures at 100%. However, CMS does require the Division to identify the remediation strategies they will use if they fall below 100%, and the Division must submit a quality improvement plan to CMS if they fall below 86%. Information on the Division's remediation strategies for each appendix can be found at the end of each Quality Improvement section.



Appendix K



The CCW Agreement establishes the specific requirements that the Division, participants, and providers must meet, but what happens when life gets very real, and we are suddenly in the middle of a state or federal emergency? CMS has a mechanism for states to use when an emergency strikes - The Appendix K authority.

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Emergency Response

- → States can request an emergency amendment to approved waivers.
- → National and State emergencies qualify.
- → Wyoming has been fortunate!



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Appendix K is a standalone appendix that may be used by states during emergency situations to request an amendment to approved waivers and allow for coverage that may not typically be available during non-emergency situations. For example, during COVID, the Division was given authority to waive required provider trainings and background screenings, even though these requirements are specifically established in the CCW. While COVID is a good example of an emergency, and the only time that Wyoming needed to submit and implement an emergency amendment to our waivers, other states have had to use Appendix K authority in times of emergency. Think Hurricane Katrina...or a major California earthquake...or tornados that occur in the midwest...or 9/11. Wyomingites are fortunate that we have not experienced other types of emergencies that qualify for Appendix K emergency authorization.

Case Manager Resources



- → Case Manager Manual
- → CCW Service Index
- → HCBS Section website and Support Calls

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CCW case managers have several resources available to them. These resources reflect the information that is in the CCW Agreement, and present the information in a way that is easy to access and understand.

The CCW Case Management Manual provides instructions and references that case managers will need to meet with CCW applicants and participants, conduct plan of care team meetings, complete necessary paperwork, and develop and submit a comprehensive service plan. This manual is written primarily for case managers, and reflects the information that is located in Appendix D. The CCW Service Index is the one-stop shop for information about service definitions, billing codes, and rates. The information in the Service Index reflects the service definitions established in Appendix C, and the case management definition includes case management responsibilities that are sprinkled throughout the Agreement.

And since we are talking about resources, we would be remiss if we didn't remind case managers about the HCBS Section website and ongoing case management and provider support calls.



Key Takeaways



- 1. The CCW is an agreement between CMS and the State of Wyoming.
- 2. Person-centered planning is a federal requirement.
- 3. Division expectations and requirements are implemented to demonstrate Wyoming's compliance with federal law.

As we end this training, we'd like to review some of the key items that case managers need to remember:

- The CCW Agreement is the Division's contract with the federal government, and establishes details for the program. Case managers should have a general understanding of this document since it provides the foundation for the CCW program.
- 2. Case managers must meet the federal person-centered planning requirements. The Division has been emphasizing this requirement over the last year, but the requirement is not arbitrary...it is federal law.
- The State of Wyoming must meet federal assurances, and the Division's expectations and requirements of CCW providers and case managers help to demonstrate Wyoming's compliance with federal law.

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Questions??? Contact your Benefits and Eligibility or Provider Support Specialist

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

Thank you for participating in the training on the Community Choices Waiver Agreement. If you have questions related to the information in this training, please contact your area Benefits and Eligibility Specialist or Provider Support Specialist. Contact information can be found by visiting the web address provided in the slide.