

# Wyoming Medicaid Rule

## Chapter 34 - Informal Public Comment



On March 7, 2023, the Division of Healthcare Financing, Home and Community-Based Services Section (Division) released a draft of Chapter 34 of Wyoming Medicaid Rules. This Chapter governs the Community Choices Waiver (CCW) program. The Division solicited feedback on the proposed Chapter prior to entering into the formal rule promulgation process. The Division received several comments that were not applicable to Chapter 34; these comments have not been included, but are being addressed through other mechanisms. Please review the comments received during the informal public comment period, along with the Division's responses.

- **Section 4(b)(i) - Applicants may request assistance from a case manager for completing the application or obtaining required verification.** Supporting individuals through the application process takes a great deal of a case manager's time. Case managers should not be expected to help people through the application process when they are not even on the waiver and the case manager cannot be paid for the time they spend.  
**Division Response:** While the Division understands that there is a cost to helping someone before you can be paid to do so, federal law (42 C.F.R. §435.908(a)) requires the State to provide a mechanism for supporting people with Medicaid applications. The Long Term Care Unit is responsible for helping people through the Medicaid financial eligibility process. The case manager who is selected by the individual when they complete the CCW application is responsible for helping with the components of the CCW application.
- **Section 6(b) - If participant enrollment reaches the maximum capacity of the CCW, eligible individuals who cannot be served within the program's capacity limits shall be eligible for placement on a waiting list.** Need clarification on why waiting lists are included in this rule, since there is not a waiting list for the CCW program.  
**Division Response:** Although the Department does not currently maintain a wait list for the CCW program, legislative directives or budgetary considerations may make it necessary at some point in the future. This rule establishes the Department's authority to create and maintain a waitlist, should that be necessary. Before the Department can establish a waitlist, the CCW Agreement with the Centers for Medicare and Medicaid Services (CMS) must be amended to address this practice.
- **Section 9(c) - A CCW provider shall not place restrictions or criteria on the services it will make available, the type of health conditions it will accept, or the persons it will accept for care or treatment, unless the provider applies those restrictions or criteria to all individuals seeking the provider's services AND Section 9(f) - A CCW provider shall only agree to provide services to a participant if the provider has the adequate administrative and staffing resources and emergency backup systems necessary to render services as described and agreed to in the participant's service plan, and in accordance with all applicable state and federal service standards.** These two sections seem contradictory. Section 9(c) says that restrictions can't be placed on who a provider will accept, but Section 9(f) requires the provider to say no to a participant they don't think they can support.  
**Division Response:** These sections are addressing two different issues. Section 9(c) establishes that a provider cannot use discriminatory practices to exclude a subgroup of individuals. Section 9(f) requires providers to use discretion and only accept a participant they can reasonably serve.
- **Section 12(a) - Covered Waiver Services.** This section is confusing. The services listed aren't covered in the Service Index.  
**Division Response:** The HCBS Section is hesitant to list the specific services offered by the CCW program in rule because, as services change, the rule would have to be amended. In order to align

Chapter 34 with other Medicaid chapters, the compromise was to list the broader categories, defined by CMS, under which the services fall. The Division will provide a more in - depth explanation on how the categories relate to the specific services.

- **Section 13(a)(iii)(A) - The participant has the freedom to choose a case management provider from a different county in areas where availability of case management providers is limited.** Please clarify that the case manager must be certified to provide services in the area.

**Division Response:** Thank you for the comment. The Division will add this clarification.

- **Section 15 - Incident Reporting and Complaints.** This section requires providers to submit incident reports that are not defined as critical. Is this a new requirement?

**Division Response:** Yes. The CCW amendment that is effective on April 1, 2023 includes additional reporting requirements that align with this Chapter. Providers will use the same online reporting process for reportable (non-critical) incidents established in this section and the CCW Agreement with CMS. This information is included in the CCW Manual that was updated on April 1, 2023.

- **Section 17(k) - The Department may establish caseload limits to ensure case managers effectively coordinate services for all participants on their caseloads.** Need clarification on why this is included in the rule, and the intent of the Division to establish caseloads.

**Division Response:** This provision of rule clarifies the Department’s right to establish caseload limits. The Division does not intend to establish limits for every case manager, but does have the authority to establish caseload limits if a case manager consistently fails to meet case management service standards.

- **Section 20(g) - The provider shall make service documentation available to the case manager each month by the tenth (10th) business day of the month following the date that the services were provided. If services are not provided during a month, the provider shall report that information to the case manager by the tenth (10th) business day of the following month.**

**Comment:** Need clarification on what is expected with this rule. Case managers don’t want to be buried with unneeded documentation.

**Division Response:** As established in Appendix C of the CCW Agreement with CMS and the CCW Service Index, case managers are currently expected to review utilization and ensure services are being furnished in accordance with the participant's service plan as part of ongoing monitoring. The only way for them to complete these activities is to review provider service documentation. This subsection will be revised to read “*The provider shall make service documentation, as described in Section 20(a), available to the case manager...*” Case managers and providers should work together to determine how to do this in an effective and efficient manner. Additional guidance will be provided in the CCW Case Management and Provider manuals.

**Comment:** If a required case conference to review service utilization was done monthly/quarterly, the case manager could have the option of viewing documentation, which would be far less work for the case managers and the providers.

**Division Response:** Thank you for the comment.