

# DD Waiver Program Case Manager Support Call **Public Health Emergency (PHE) Flexibility Rollbacks**

Wyoming Department of Health  
Division of Healthcare Financing  
Home and Community-Based Services (HCBS) Section  
May 8, 2023



**HOME AND  
COMMUNITY-  
BASED  
SERVICES**

WYOMING MEDICAID  
DIVISION OF HEALTHCARE FINANCING



Wyoming  
Department  
of Health

Good Afternoon. My name is Lacey Magnuson, and I am a Benefits and Eligibility Specialist for Division of Healthcare Financing, Home and Community-Based Services Section. Thank you for joining us for today's training.

# Acronyms and Abbreviations

- Department/Division/HCBS Section
- DD Waivers - Comprehensive and Supports Waivers
- CMS - Centers for Medicare and Medicaid Services
- PHE - Public health emergency
- COVID or COVID-19 - Coronavirus Disease 2019
- ICAP - Inventory for Client and Agency Planning



Before we get started, we'd like to go over some of the acronyms and abbreviations we will be using in today's training. The Medicaid system in general, and the home and community-based services program in particular, uses a lot of acronyms. Although most of you know these terms, for a new case manager, it can feel a bit like alphabet soup.

- 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 Comprehensive and Supports Waivers are separate waiver programs that serve people with intellectual and developmental disabilities and acquired brain injuries. However, we often refer to these programs collectively as the DD Waivers or DD Waiver program.
- We will occasionally refer to the Centers for Medicare and Medicaid Services. We will use CMS when referring to this federal agency.
- This training covers the flexibilities that were offered during the Coronavirus Disease 2019 public health emergency. Throughout this training we will refer to COVID or COVID-19, which is the common vernacular used when referring to this coronavirus. PHE will be used to identify public health emergency.
- Finally, the Division uses an assessment called the Inventory for Client and Agency Planning to calculate participant individual budget amounts. We refer to this assessment as the ICAP.



**Discuss the HCBS Section's strategy for rolling back PHE flexibilities.**

On February 11, 2023, President Biden's administration indicated that the COVID PHE would be ending on May 11, 2023. The HCBS Section wants to ensure that case managers are aware of how we will be rolling back the flexibilities that were offered during the PHE, and how that rollback may affect their current practices.

# Training Agenda

- Discuss why flexibilities were extended during the PHE
- Provide a recap of the flexibilities that were offered
- Explain the flexibility rollbacks and what to expect

By the end of this training, we will have discussed why the Division allowed flexibility in state policies and requirements. We will then provide a recap of those flexibilities and explain what the new normal will look like as we unwind them over the next few months.



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

Choice is a basic tenet of home and community-based waiver services. You hear us say it at the beginning of every training, and you can probably recite it in your sleep by now, but we continue to state this because we want it to be in the forefront of everyone’s mind. 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.

Several of the flexibilities offered during the PHE directly impacted how participant choice was demonstrated. Now that we are returning to a more typical way of doing business, it is important to remember that we always want to ensure that the participants you serve have choice in their lives, and that their choices are documented and verified.



Before we go into the flexibilities offered, we feel it is important to understand *why* the flexibilities were offered. Let's take a step back in time to late 2019. When COVID entered the scene, few of us realized the impact that it would have on our world, our country, our state, or our individual lives. Few of us imagined a world in which we couldn't shake hands, eat at a restaurant, or get a haircut. Few of us believed that the latest fashion accessory would be a face mask. And never did we imagine the fear and uncertainty, the economic hardships, or the isolation and loneliness that people would experience as a result of COVID.

When the national PHE was declared on January 27, 2020, Division personnel started planning for how and when this emergency would affect Wyoming citizens. Although we weren't sure at the time how COVID was going to impact Wyoming, we wanted to ensure that participants, providers, family members, and community members were as safe as they could be given the very difficult circumstances. The point of the flexibilities was to provide...well... flexibility to participants, providers, and case managers so they could, to the best of their ability, continue to receive, provide, or monitor DD Waiver services.

Although much of what we discuss today will be focused on rolling these flexibilities back, it is important to note that outside of this formal declaration about the end of the PHE, day to day work has resumed without these flexibilities being necessary. Even though these flexibilities have remained in place, the Division presumes that most of the original standards outlined in the DD Waiver agreements and governing rules are being met, simply because the need for the flexibilities no longer exists.

## Appendix K - Effective January 27, 2020

- **March 31, 2020** - Appendix K approved
- **April 21, 2020** - Extended provider certification renewal and implemented 12% rate increases
- **June 19, 2020** - Extend federal reporting timelines
- **August 19, 2020** - 12.5% rate increases, end September 1, 2020
- **January 15, 2021** - Date of flexibilities extended

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CMS offers an Appendix K, which is a standalone authority that allows states to extend some flexibilities to the standards set forth in HCB waivers during natural disasters and other emergency situations, such as a pandemic. During the course of the PHE, the Division submitted several Appendix Ks in order to address the needs of DD Waiver stakeholders. Most of the flexibilities were retroactively effective on January 27, 2020, the date the PHE was declared.

On March 31, 2020, the Division received approval on its initial Appendix K submission, which was effective for one year. This initial Appendix K allowed for most of the flexibilities under which the DD Waiver programs are practicing today.

On April 21, 2020, the Division received approval to extend provider certification renewal dates by one year in order to ensure that providers could continue to deliver services even though on-site visits and many of the external safety inspections had been suspended. Additionally, the Division was able to temporarily increase provider reimbursement rates on several selected services. The rate increase went into effect on March 13, 2020.

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. Every year, the Division must submit a report to CMS that demonstrates that all required assurances were met. On June 19, 2020, the Division received approval to suspend the collection of some data that informs these reports. Although this flexibility exists, the

Division has never had to use the flexibility and has met all of the reporting requirements established by CMS.

On August 19, 2020, the Division received approval to alter the temporary provider rate increases to 12.5%. However, this Appendix K also ended the temporary increase, effective September 1, 2020.

Of course, we all know that the PHE extended well beyond a year. On January 15, 2021, the Division received approval to extend the flexibilities to six months past the date the PHE ended, or upon notification from the Division that the flexibility would be rolled back.



## Things That Never Changed

- Community access
- Incident reporting
- Participant choice
- Individual budget amounts
- Communication with Division staff



Although the Division did offer flexibilities throughout the PHE, there were some standards that remained constant, in spite of the PHE.

Participants had to have access to the community to the same degree that people who were not receiving HCBS. Unless a community sheltering in place order was specifically issued by State or Federal authorities, participants had access their community. Providers and plan of care teams were reminded to encourage participants to follow established guidelines for health and safety, implement social distancing, and exercise caution when they were in the community; providers were reminded to exercise these cautions as well.

During the PHE, providers were held to the incident reporting requirements established in Chapter 45, Section 20 of Wyoming Medicaid Rules.

As you will see as we move into our recap of the flexibilities, no flexibility could be implemented without the participant's agreement. Participant choice remained paramount throughout the PHE.

With the exception of changes related to temporary rate increases, additional funding was not available to increase participant individual budget amounts (IBAs). All services provided during the PHE had to fit within the participant's current IBA.

Throughout the PHE, the Division encouraged providers to reach out with questions or concerns, and for a time held weekly and then monthly update meetings. Although calls held

specifically to update stakeholders on PHE priorities were eventually suspended, the Division continued to encourage providers to contact Division personnel if a question or concern arose.



The flexibilities offered to participants, providers, and case managers during the COVID PHE can be found on [DD Providers and Case Managers](#) page of the HCBS Section website. Let's recap these flexibilities now.

# Flexibilities - Planning and Monitoring

- IPC development and monitoring by phone or video conferencing
  - Additional guidance for documentation
  - Monthly case manager contact still required
  - All case management activities still required
- Required forms and program materials accepted without required signatures if activity was completed remotely
- Assessments



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Flexibilities addressed several topics related to the development and monitoring of the individualized plan of care (IPC).

Case managers were provided flexibility to conduct IPC development and monitoring activities, including plan of care team meetings, home visits, and service observations, by telephone or video conference as an alternative to in-person case management visits. A home visit has always been required, but it was up to the case manager and participant or legally authorized representative to decide if the visit should be conducted in person or via telephone or video conference. If the home visit was conducted by telephone or video conferencing, documentation of the visit was still required. The Division provided additional guidance on documentation expectations. Although the case manager was able to talk to provider staff members regarding specific concerns, challenges, or activities, the intent of the home visit was to talk to the participant, and that interaction was still expected to be the majority of the visit.

All case management activities were required in order to bill for a monthly unit, as established in the DD Waiver Service Index. Activities included, but were not limited to:

- A minimum of two hours of billable services;
- A home visit; and
- An hour of person to person contact with the participant or legally authorized representative.

During the PHE, the hour of person to person contact could occur via telephone or video conferencing. However, case managers were still required to use that time for contact with

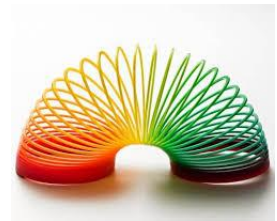
one participant; visits could not be combined to bill for multiple participants at the same time.

The Division also accepted forms and program materials without the required signatures as long as certain documentation criteria were met. The Division released additional guidance on what was acceptable during this time.

The Division also allowed psychological and neuropsychological assessments to be conducted via video conferencing. The Wyoming Institute for Disabilities (WIND) conducted ICAP assessments via teleconferencing. National Core Indicator (NCI) Adult In Person surveys were suspended during the PHE.

## Flexibilities - Service Providers

- Certification renewals
- Site inspections
- Staff certifications and training
- Background screenings



Flexibilities addressed several topics related to providers of DD Waiver services. Throughout the PHE, the Division was in regular contact with CMS, representatives from national associations, and colleagues in other states. When considering flexibilities, the Division balanced participant health, rights, and person-centered services with public safety recommendations and the challenges faced by the provider community. While the Division worked with providers to address individual concerns as they arose, throughout the PHE providers were required to provide the support and supervision levels that were outlined in each participant's IPC.

The Division extended provider certification renewals for all providers through June 30, 2020, which then extended an additional year. Providers were expected to remain in compliance with all documentation standards, reporting requirements, and other provisions established in Chapter 45 of Wyoming Medicaid Rules.

The Division initially limited on-site visits that would usually occur as a result of a complaint or incident, and for a short time only conducted an on-site visit if the complaints concerned a participant's health and safety. However, due to the important nature of on-site visits, the Division did reinstitute virtual on-site visits within a short time. Requirements related to inspections by outside entities were relaxed.

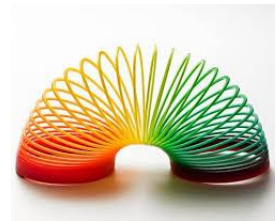
The Division offered flexibilities related to the required trainings of direct support workers (DSWs), which includes independent providers, agency provider staff members, and participant-directed employees. If a DSW had a required training certification such as medication assistance, CPR, or Mandt, expire because the training was cancelled during the

PHE, that fact had to be documented and the documentation had to be provided to the Division upon request. Upon notification that the PHE was over, the DSW had 30 calendar days to schedule training. If a DSW's crisis intervention training expired, they were not allowed to perform restraints. Although the Division gave flexibility to training requirements during the PHE, providers were still responsible for any harm that came to a participant as a result of inadequate staff training.

Flexibilities related to fingerprinted background screenings were offered to address the temporary halt of these screenings by the Division of Criminal Investigation. Fingerprint background screening requirements for individuals defined in Chapter 45 of Wyoming Medicaid Rules, and subsequent fingerprinting for these individuals, were temporarily suspended. Upon notification that the PHE was over, the individual had 30 calendar days to submit their fingerprints. Once entities that conducted fingerprinting opened back up, Division staff did require fingerprint screenings if there was a concern that an individual could not meet the background screening requirements. The submission of Department of Family Services (DFS) Central Registry and Office of Inspector General Exclusion Database screenings were required throughout the PHE.

# Flexibilities - Services

- Community Support Services
- Adult Day Services
- Community Living Services - Basic 15 minute unit
- Therapy Services
- Companion Services



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The Division offered several flexibilities related to service definitions.

During the PHE, participants could receive Community Support Services in their homes, as long as they met certain conditions:

- The change in setting had to be approved by the participant or legally authorized representative, with written documentation of the approval available to the Division upon request.
- Providers had to ensure that the service met the service definition and the needs of the participant, as outlined in the participant's IPC.
- The high level of care tiered rate allowed for individual time spent solely in the community could not be billed while the participant was receiving services in their home.

The Adult Day Services (ADS) description already allowed for the service to be provided in the participant's home as long as the participant or legally authorized representative and the plan of care team decided the home was the most appropriate place to receive the service, and it was documented in the participant's IPC. During the PHE, this service could be provided in the participant's home as long as there was written documentation of the approval, such as an email or text message. A IPC modification was not required as long as ADS was authorized on the current IPC.

During the PHE, participants who were receiving Companion Services and basic 15 minute units of Community Living Services could receive those services through teleconferencing if the service could be appropriately delivered through the technology. Some conditions



existed with this flexibility.

- The services had to meet the service definitions and participant's needs, as outlined in their IPC, and the service delivery method had to be approved by the participant or legally authorized representative.
- In the event of a participant emergency, or upon the request of the participant, the provider had to be available to respond in person.
- Within the guidelines issued by federal, state, and local officials, the participant had to have access to their community to the same degree as other citizens.

The Division allowed Occupational Therapy, Physical Therapy, and Speech, Language, and Hearing Services to be delivered through teleconferencing as long as this service delivery option was allowed by the therapist's licensure board and the needs of the participant could be appropriately addressed in this manner.

# Flexibilities - Services During School Closures

- Respite Services while the primary caregiver works;
- Respite, IHT, Personal Care or Child Habilitation during regular school hours;
- Companion for participants over the age of 18



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The Division understood the hardship that was created when school districts closed at the height of the PHE, so some flexibility was offered during school hours if schools were closed.

- Respite Services could be used while the primary caregiver was at work;
- School aged children could receive Respite, Individual Habilitation Training, Personal Care or Child Habilitation Services during regular school hours when local school districts were closed due to the COVID-19 crisis; and
- Participants who typically attended school and were 18 years or older could use Companion Services.

Communities throughout Wyoming responded differently to the PHE, based on their specific experience and circumstances. Each school district has a Special Education Director, so plan of care teams were encouraged to work with them to determine how school services would be addressed.

## Flexibilities - Hospitalizations

- Adult Day
- Community Living
- Companion
- Personal Care Services



Adult Day, Community Living, Companion, and Personal Care Services could be provided to support participants in a hospital setting when the the participant required these services for communication, behavioral stabilization, or intensive personal care needs.



## Flexibilities - Visitors

- Temporary restrictions could be applied
- Some visitors could not be restricted
- Providers did not have authority to restrict community access.



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The participant's right to have visitors of their choosing at any time could be temporarily restricted if:

- The participant had a confirmed diagnosis of COVID-19;
- The participant was awaiting results of a COVID-19 test; or
- The participant had direct contact with an individual who was presumed to have COVID-19.

Providers could establish policies that limited visitors in a provider owned and operated residence in order to minimize the spread of infection during the PHE. Although limiting visitors was acceptable, visits from legally authorized representatives, case managers, representatives from the Division, DFS, Protection and Advocacy Systems, Inc., law enforcement, and first responders could not be restricted. Providers had to impose limits in a way that had the least impact on each participant's right to have visitors of their choosing, but they could implement strategies, such as visitor screenings, prior to visitors entering the residence. This temporary allowance did not give providers authority to prohibit participants from accessing the community.

## Flexibilities - Reimbursement Rates



- Temporary 12.5% increase to some services
- Temporary 12.5% increase to participant-directed budgets

Early on in the PHE, the Division identified the need to temporarily increase certain provider reimbursement rates for traditional DD Waiver services. In order to maintain the direct support professional workforce and account for increased overtime pay, the Division implemented rate increases for services that were provided by DSWs, and services that could put workers in contact with biohazards, such as skilled nursing and homemaker services. These rates were retroactive to March 13, 2020.

Effective June 1, 2020, the Division implemented a temporary increase to a portion of participant self-directed budgets. The amount aligned with the temporary reimbursement rate increase for traditional service providers, and was intended to ensure the continuity of the direct support professional workforce. This increase was earmarked for the purpose of increasing employee wages, and could not be used to add additional services to the participant's IPC. The employer of record (EOR) could choose to increase employee wages for existing services, but they were not required to implement wage increases of any kind.



Now that we've reviewed the flexibilities offered to participants, providers, and case managers during the COVID PHE, let's talk about how we intend to roll these flexibilities back and return to a more normal course of doing business.

## Previous Rollbacks

- September 1, 2020 - Temporary rate increases
- June 1, 2022 - Flexibilities for background screenings and trainings
  - Exception of Medication Assistance Training, which will not be required until online training is available
- September 1, 2020 - acute hospital settings
- School services



Some of the flexibilities offered during the PHE were rolled back prior to the end of the public health emergency.

The temporary rate increases and participant budget increases ended on September 1, 2020. Let's work through what else has happened with provider reimbursement rates since this increase was eliminated.

- On March 1, 2021, an almost across the board 2.5% decrease was applied to address statewide budget reductions.
- On February 1, 2022, provider rates were updated to align with the 50% Model rate and methodology established in the [SFY2023 DD Waiver Provider Rate Study](#).
- On September 1, 2022, new agency rates were established for select services that were provided to participants with high support needs. The rates and methodology align with the High Needs Model established in the SFY2023 DD Waiver Provider Rate Study .
- Another DD Waiver amendment is currently out for public comment and reflects additional agency and across the board increases that were appropriated by the Wyoming legislature.

On June 1, 2022, the Division rescinded flexibilities associated with background screenings and provider training. Providers must meet all training and background screenings established in Chapter 45, with the exception of medication assistance training, which we will address later in this training.

Finally, in the DD Waiver amendment that went into effect on September 1, 2022, CMS

approved an allowance for specific services to be provided in an acute care hospital, as authorized in 42 U.S.C 1396a(h). Services must be:

- Identified in the participant's IPC;
- Provided to meet needs of the participant that are not met through the provision of acute care hospital services;
- Not a substitute for services that the acute care hospital is obligated to provide through its conditions of participation or under Federal or State law, or under another applicable requirement; and
- Designed to ensure smooth transitions between the acute care setting and the home and community-based settings, and to preserve the individual's functional abilities.

Case managers and providers are required to coordinate with hospital staff and plan of care team members in order to ensure that the participant's transition from a temporary hospital stay to their home is seamless.

Finally, flexibilities related to school services have not been used since school districts reinstated classes.



## Planning and Monitoring Rollbacks

- March 6, 2023 - In person IPC planning activities, when possible
- March 6, 2023 - IPC monitoring standards must be followed
- June 1, 2023 - Signatures required



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DD Waiver case management activities have always been designed to be in-person, direct services. A primary responsibility of case managers is the ongoing monitoring of a participant's health and welfare, and this is best done through in-person observation. When the case manager is in the participant's physical proximity, they can connect more effectively, observe body language and appearance, and more easily recognize concerns related to the environment. The health and safety of the participant is of utmost importance, but there are other mechanisms, such as masks or social distancing, that can be used as an alternative to the isolation that comes with conducting business virtually. Most people have returned to shopping, dining out, and attending public events and social gatherings, and have found various ways to participate in these activities while still focusing on health and safety.

Effective March 6, 2023, case managers were required to encourage the participants they serve to meet in person for IPC planning activities. The participant may still choose to meet by phone or video, but the case manager must not dictate how the meeting will occur, nor should they try to sway the participant to make a decision that is more convenient for the case manager. To the extent possible, the case manager and the participant should meet in the same room, and the full team must attend either in person or virtually. Regardless of how the meeting is conducted, the meeting should be scheduled at a time and place that is convenient for the participant.

Effective immediately, case managers must follow service plan monitoring standards outlined in the DD Waiver Service Index.

Effective June 1, 2023, case managers must submit forms and documents needed for IPC

renewals, modifications, and monitoring, with required signatures. Valid electronic signatures are accepted. A valid electronic signature is one that has been created with an electronic signature platform that the identified signatory is uniquely entitled to use for signing **that** document, and where the signatory is authorized to sign the document by virtue of their legal status or relationship to the entity on whose behalf the signature is executed. Typed signatures are not valid electronic signatures.

Effective December 1, 2023, the HCBS Section will not accept any document that requires a signature without that signature.

# Service Definition Rollbacks

- June 1, 2023 - Services must align with Service Index
  - Companion Services
  - Community Living Services
  - Adult Day Services
  - Community Support Services
- March 6, 2023
  - Therapies according to licensing standards
  - Assessments according to licensing entity
  - ICAPs conducted in person



The HCBS Section updated service definitions in order to implement social distancing measures to mitigate the spread of COVID-19.

Effective June 1, 2023, all services, including Companion, Community Support, Community Living, and Adult Day Services, must be provided in accordance with the DD Waiver Service Index. In particular, Community Support Services must not be scheduled or provided in the participant's private residence. Community Support Services must be furnished in a variety of settings in the community, and cannot be limited to only fixed site or congregate settings. Activities and environments must foster the acquisition of skills, appropriate behavior, greater independence, community networking, and personal choice.

Occupational Therapy, Physical Therapy, and Speech, Language, and Hearing Services may be provided in accordance with the standards established by the related licensing authority. Psychological and neuropsychological evaluations must also be conducted in accordance with the clinician's licensing entity. ICAP assessments will generally be conducted in person, unless there are extenuating circumstances. Case managers should plan accordingly because it will take longer to coordinate in-person assessments.

# Service Provider Rollbacks

- March 6, 2023 - Provider certification renewals
- TBD - Medication Assistance Training
  - April 3rd launch was unsuccessful
  - We continue to work on compatibility and capacity issues



Effective March 6, 2023 the flexibility related to the mass extensions for provider certification renewals ended.

The HCBS Section developed an online Medication Assistance Training, which was released on April 3, 2023. The roll out was flawed, and the training was rescinded while we work through ongoing compatibility issues. We hope to have a solution soon, and will determine registration and completion deadlines once the training is accessible.

# Visitor Rollbacks



A participant's right to have visitors of their choosing at any time cannot be restricted, except as established in Chapter 45.

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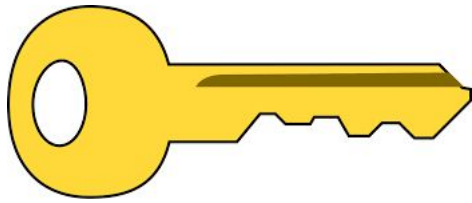
Effective immediately, a participant's right to have visitors of their choosing at any time cannot be restricted, except as indicated in [42 CFR 441.301\(c\)\(4\)\(vi\)\(F\)](#) and Chapter 45, Section 4 of Wyoming Medicaid Rules.

# Work Together



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The HCBS Section appreciates the case managers and other waiver providers that have worked so hard to ensure that participants have had the services and supports they needed during the PHE. We understand that returning to a more normal course of doing business can cause apprehension and concern, for both the participant and the provider or case managers. Teams need to work together to ensure that, as times change, participants continue to receive the support they want and need, have choice, can make decisions for themselves, and live meaningful lives.



# TAKEAWAYS

1. Signatures are required.
2. Case management services should be delivered in-person.
3. Only the participant can choose remote meetings.
4. Providers must adhere to the service definitions.

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Before we end today, we'd like to remind case managers of the key takeaways of today's training.

1. Effective June 1, 2023, case managers must submit forms and documents needed for IPC renewals, modifications, and monitoring, with required signatures. Effective December 1, 2023, the HCBS Section will not accept any document that requires a signature unless the signature is present.
2. Case managers are already required to encourage participants to meet in person for IPC planning activities. Case management activities are designed to be in-person, direct services, and ongoing monitoring of a participant's health and welfare is best done through in-person observation. When the case manager is in the participant's physical proximity, they can connect more effectively, observe body language and appearance, and more easily recognize concerns related to the environment.
3. The participant may still choose to meet by phone or video. The case manager must not dictate how the meeting will occur, and must not try to sway the participant to make a decision that is more convenient for the case manager. To the extent possible, the case manager and the participant should meet in the same room, and the full team must attend either in person or virtually.
4. Effective June 1, 2023, all services, including Companion, Community Support, Community Living, and Adult Day Services, must be provided in accordance with the DD Waiver Service Index.



## Contact your Benefits and Eligibility Specialist

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

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Thank you for taking time to participate in today's training on the rollback of COVID flexibilities. If you have questions related to the information in this training, please contact your area Benefits and Eligibility Specialist. Contact information can be found by clicking on the link provided in the slide.