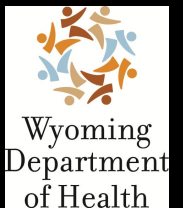


Community Choices Waiver Provider Training

Participant Rights

Wyoming Department of Health
Division of Healthcare Financing
Home and Community-Based Services Section
September 27 , 2021



Purpose of This Training



To familiarize providers with the rights and freedoms of Community Choices Waiver participants, to establish the importance of honoring those rights, and explain the process and potential risks associated with restricting a participant's rights.

Training Agenda

- Rights of participants receiving services
- Steps and considerations for implementing restrictive interventions
- Provider and case manager requirements and responsibilities



Freedom to make choices is a human right. Laws protect people's right to decide how to spend their money, make their own health care decisions, work for a living, and have relationships with friends and family.

Dignity of Risk

Providers must maximize a person's ability to make choices while minimizing the risk of endangering the person or others.



*People need to have "the dignity of risk" and
"the right to fail".*

~ Patricia E. Deegan

Participant Rights



Each participant receiving services has the same rights and responsibilities guaranteed to all other U.S. citizens under the United States and Wyoming constitutions and federal and state laws.

42 CFR 441.301(c)(4)

Rights of Waiver Participants

- The right to privacy;
- The right to freedom from restraint;
- The right to privacy in their sleeping or living quarters;
- The right to sleeping and living quarters that have entrance doors that can be locked by the participant, with only the participant and appropriate staffing having keys to doors;
- The right to choose with whom and where they live;
- Freedom to furnish and decorate their sleeping or living quarters within the lease or other agreement;
- Freedom and support to control their own schedules and activities.
- Freedom and support to have access to food at any time;
- Freedom to have visitors of their choosing at any time, and associate with people of their choosing;
- Freedom to communicate with people of their choosing;
- Freedom to keep and use their personal possessions and property;
- Control over how they spend their personal resources;
- The right to access the community; and
- The right to make and receive telephone calls.

Rights That Cannot be Restricted

- Right to dignity and respect;
- Right to be free from coercion;
- Right to receive services in settings that are physically accessible to the participant; and
- Right to make calls to Protection and Advocacy, or state or federal oversight or protection agencies such as the Division or Department of Family Services.

Participant's Right to Refuse Services

- Participants of CCW services have the right to refuse waiver services.
- Participants shall not be disciplined and cannot be charged a monetary fee for refusing service.
- Case managers must verify billing to ensure refusals are not billed as a provided service.
- Providers are encouraged to develop and implement policies to support a participant's right to refuse services.

Restricting the Right to be Free From Restraint

- The court, legally authorized representative, or participant must authorize the limitation in writing.
- Other less restrictive interventions that will be used prior to the restraint must be included in the service plan and provider documentation.

Provider Coercion and Retaliation are Prohibited

- Providers shall not request or require participants to waive or limit their rights as a condition of receiving services.
- Providers shall not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against any individual who exercises any of their rights.

Restrictive Interventions



When a restriction is deemed necessary, the service plan shall include a rights restriction protocol that addresses the reasons for the rights restriction, and provider guidance on implementation of the restriction.

Things to Consider When Restricting a Participant's Rights

- Restricting the basic human rights of an individual is a REALLY BIG DEAL!
- Restricting an individual's rights must NEVER be for the convenience of a provider or legally authorized representative.
- Restricting an individual's rights may lead to increased frustration and incidents.

Identify When a Restrictive Intervention is Necessary

- Review concerns.
- Ask questions.
- Review other supports that are available, and other strategies that have been tried in the past.
- Identify the need the team is trying to mitigate.
- Identify potential negative issues associated with the restriction.

Restrictive Intervention Criteria

- Identify specific individualized need with periodic reviews;
- Monitoring and documenting positive Interventions;
- Document previous methods that did not work;
- Review ongoing effectiveness w/ established time limits; and
- Informed consent and assurances.



Implementing a Rights Restriction

- Train providers and provider staff members on how to implement restrictions and maintain participant dignity.
- Educate participants.
- Identify what part(s) of the right the participant can exercise.
- Track, document, and report.
- Communicate changing needs and associated risks.

Restoring a Participant's Rights

- Minimize the effects of the restrictive intervention.
- Encourage communication about the restrictive intervention
- Assist the participant with understanding their progress
- Actively review the restriction to see if it can decrease over time, even if the right cannot be completely restored.

Inadvertent Rights Restrictions



- “You can’t have dessert if you don’t finish your dinner.”
- “It’s 10:00 pm. You can’t go for a walk.”
- “You don’t need another soda. You’ve already had one today.”

Division Review of Rights Restriction Implementation

- Case manager conducts monthly service plan monitoring activities, screening for potential risks or concerns.
- Providers and case managers assess a participant's satisfaction, evaluate effectiveness and ensure services are delivered according to the service plan.
- Case manager must report the unauthorized use of or misapplication of rights restriction as critical incident.

Provider and Case Manager Responsibilities



A provider is encouraged to have and implement specific policies and procedures to protect and promote the rights of participants.

Suggested Provider Policies and Procedures

- Participants have the opportunity to maximize their rights and responsibilities;
- Participants have the right to refuse services and shall not be disciplined or charged with a monetary fee for refusing home and community based waiver services;
- Participants are supported in exercising their rights while receiving waiver services;
- Rights shall not be treated as privileges or things that should be earned; and
- Retaliation against a participant's services and supports due to the participant, family members, or legally authorized representatives advocating on behalf of the participant or initiating a complaint with an outside agency, is prohibited.

Provider Responsibilities

- Ask questions;
- Work with participant to lessen restrictions over time;
- Review and maintain documents; and
- Voice concerns.

Case Manager Responsibilities

- When the team is considering a restrictive intervention, ask questions;
- Work with participant to ensure the intervention continues to be appropriate;
- Review and maintain documents; and
- Voice concerns.

Key Takeaways



1. Participants of CCW services have the same rights and responsibilities as other US Citizens.
2. A participant's rights should only be restricted as a last resort, and should be done in a way that protects their dignity.
3. Providers must ask questions, voice concerns, and ensure they know how to implement the restrictive intervention.
4. Providers cannot implement a restrictive intervention if it is not specifically listed in the service plan.

Questions???

Contact the Provider Support Unit or your Benefits and Eligibility Specialist

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