

CHAPTER 34

Home and Community Based Services Community Choices Waiver Program

Section 1. Authority.

(a) The Wyoming Department of Health (Department) promulgates this Chapter pursuant to the Wyoming Medical Assistance and Services Act at Wyoming Statute 42-4-101 through-124.

(b) The services offered under the Community Choices Waiver program are authorized by the Medical Assistance and Services Act at W.S. 42-4-103(a)(xvii).

(c) The Community Choices Waiver program is federally authorized by waiver of the amount, scope, and duration requirements contained in § 1902(a)(10)(B) of the Social Security Act governing Medicaid. This Waiver has been granted to Wyoming by the United States Department of Health and Human Services under § 1915(c) of the Social Security Act and approved by the Centers for Medicare and Medicaid Services (CMS).

Section 2. Purpose and Applicability.

(a) The Department adopts this Chapter to govern the Community Choices Waiver program (CCW) for covered home and community-based services (HCBS) provided to eligible individuals who would otherwise qualify for and require the services and level of care provided in a nursing facility.

(b) This Chapter shall apply to all HCBS provided and reimbursed under the CCW not otherwise available under the Wyoming Medicaid State Plan.

(c) The Department may issue manuals and bulletins to interpret this Chapter. Such manuals and bulletins shall be consistent with and reflect the rules contained in this Chapter. The provisions contained in manuals and bulletins shall be subordinate to this Chapter.

Section 3. Definitions.

(a) Except as otherwise specified in Wyoming Medicaid Rules Chapter 1, or this Section, the terminology used in this Chapter is the standard terminology and has the standard meaning as used in accounting, health care, Medicaid, and Medicare.

(b) “Chemical restraint” means “Drug used as a restraint” as defined in Wyoming Medicaid Rules Chapter 1.

(c) “Physical restraint” means “personal restraint” as defined in Wyoming Medicaid Rules Chapter 1.

(d) “Restrictive intervention” means a limitation or restriction of a participant’s rights.

(e) “Room and Board” means any shelter-type expenses, including all property-related costs such as rental or purchase of real estate, and basic furnishing, maintenance, utilities, and related administrative services, as well as three meals per day or any other full nutritional regimen.

Section 4. Application Process.

(a) Applicants shall submit a CCW application in the manner and form prescribed by the Department. The application shall be completed, dated, and signed by the applicant or a legal guardian who is assisting the applicant.

(b) Applicants may be accompanied, assisted, or represented by an individual or individuals of their choice during the application process.

(i) Applicants may request assistance from a case manager for completing the application or obtaining required verification.

(ii) A case manager assisting the applicant shall submit all required documentation within thirty (30) calendar days of receipt.

(c) The Department or its agent shall review all applications, supporting documentation, and evaluations within thirty (30) calendar days of receipt by the Department and determine whether the applicant is eligible for the CCW.

(d) Applicants shall be notified in writing of their approval, denial, or other determination by the Department and, if applicable, will receive an explanation of their right to request an administrative hearing in accordance with Wyoming Medicaid Rules Chapter 4.

Section 5. Waiver Program Eligibility.

(a) The Department shall offer CCW enrollment only to those individuals determined by the Department or its agent to meet all applicable eligibility requirements of Wyoming Medicaid Rules Chapter 18 and of this Chapter.

(i) The individual shall be a member of one (1) of the following CCW target groups:

(A) The individual is aged sixty-five (65) years or older; or

(B) The individual is between the ages of nineteen (19) and sixty-four (64) years and has been determined disabled by the Social Security Administration or by the Department pursuant to Wyoming Medicaid Rules Chapter 18.

(ii) The individual shall need services that qualify for a nursing facility level of care as measured by the level of care assessment approved by the Department and conducted pursuant to Wyoming Medicaid Rules Chapter 22.

(A) The need for nursing facility level of care must be determined no more than three hundred sixty-five (365) days prior to enrollment in CCW and at least annually thereafter.

(B) An individual who has lost eligibility based on not meeting a nursing facility level of care, upon new application may be re-evaluated within three hundred sixty-five (365) days of their last assessment if the individual documents a change in condition sufficient to warrant a new evaluation

(b) The individual shall be eligible, and maintain continuous eligibility, for the Wyoming Medicaid program pursuant to Wyoming Medicaid Rules Chapter 18.

(c) Individuals who reside in a nursing facility, hospital, intermediate care facility for individuals with intellectual disabilities, or other institutional setting shall be ineligible to receive CCW services.

(i) During a declared emergency this ineligibility may not apply to certain temporary services available to support the individual's transition from an institutional setting, for which services are limited to thirty (30) consecutive days.

(ii) Participants admitted to an institutional setting for a period greater than thirty (30) consecutive days shall be terminated from the CCW.

(iii) Individuals residing in an institutional setting may receive transitional services for a period of six (6) months prior to transitioning to HCBS in accordance with the Department's standards and requirements.

(d) Individuals denied enrollment or continued participation in the CCW pursuant to the provisions of this Section shall be issued a written notice of adverse action and informed of their right to request an administrative hearing in accordance with Wyoming Medicaid Rules Chapter 4.

Section 6. Reserved Capacity and Waiting List.

(a) The Department may manage participant enrollment capacity on a statewide basis.

(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.

(i) The waiting list shall be maintained by the Department.

(ii) An individual's position on the waiting list shall be based upon the date the individual was determined eligible pursuant to this Chapter.

(iii) As capacity for additional enrollments becomes available, individuals on the waiting list shall be enrolled in chronological order; however, the Department may reserve capacity for the prioritized enrollment of individuals included in a priority group specified in the CCW.

Section 7. Loss of Eligibility.

(a) A participant is no longer eligible for the CCW, and the Department shall terminate the participant's enrollment and provision of services, if any of the following occur:

(i) The participant does not meet target group requirements;

(ii) The participant does not meet financial eligibility;

(iii) The participant changes residence to another state;

(iv) The participant voluntarily does not receive at least one (1) waiver service, for thirty (30) consecutive calendar days, and a reevaluation conducted pursuant to Medicaid Rules Chapter 22 demonstrates the participant no longer needs an institutional level of care;

(v) A re-evaluation using the level of care assessment approved by the Department demonstrates the participant no longer needs an institutional level of care; or

(vi) The participant is in a nursing home, hospital, residential treatment facility, in-patient hospice, or other institutional setting, or is incarcerated for thirty (30) or more consecutive calendar days.

(b) The Department may terminate a participant's CCW enrollment and provision of services if any of the following occur:

(i) The participant is in an out-of-state placement or residence for six (6) consecutive months or resides out of state for six (6) consecutive months; or

(ii) The participant is enrolled in a different HCBS waiver.

(c) The Department shall notify the participant in writing within fifteen (15) calendar days of the date the individual is determined ineligible for CCW services.

(d) In accordance with Wyoming Medicaid Rules Chapter 4, the Department shall provide notice of adverse action and the right to request an administrative hearing to any individual whose Medicaid service coverage or eligibility is denied, reduced, terminated, or suspended under this Section.

(e) A participant whose CCW enrollment and services were terminated under this Section may reapply at any time. Eligibility will be determined pursuant to Section 5.

Section 8. CCW Provider Certification and Recertification.

(a) The Department shall not pay CCW funds to any individual or entity that provides services to a participant unless the individual or entity is a party to a fully executed provider agreement and is enrolled as a Medicaid provider and certified as a CCW provider by the Department.

(b) The Department shall establish CCW provider qualifications and participation standards to assure that CCW services are delivered in a safe and effective manner. These qualifications and standards shall:

(i) Ensure providers not be excluded from participation in federally funded health care programs by the U.S. Department of Health and Human Services, Office of Inspector General;

(ii) Be appropriate to the type of each CCW service provided;

(iii) Ensure providers have the sufficient training, experience, and education necessary to reasonably assure the health and welfare of participants;

(iv) Ensure any applicable state licensure or certification requirements are met by the entities or individuals furnishing services; and

(v) Ensure the settings and manner in which CCW services are rendered support the participant's full access to the greater community and do not have the effect of isolation or segregation.

(c) The Department shall allow for the open, continuous enrollment and certification of all willing and qualified CCW service providers without restriction or limitation on the number of providers.

(d) The following procedure governs the certification of CCW providers:

(i) An individual or entity that wishes to provide CCW services shall apply to be a provider on the forms specified by the Department, and shall submit the qualifying documentation and information required by the Department to be certified as a provider. Failure to supply all information required will result in denial of the application.

(ii) The Department or its designated agent shall make a determination on a completed application within thirty (30) calendar days of the date it receives the completed application.

(iii) If the application is denied, the Department shall notify the applicant of its decision in writing in accordance with Wyoming Medicaid Rules Chapter 4.

(e) The Department shall deny certification of any individual or entity who was previously decertified by the Department due to adverse action.

(f) The provider's certification shall become effective when all requisite state and federal verifications have been completed and the Medicaid provider agreement has been fully executed. The initial certification remains in effect for one (1) year.

(g) CCW service providers may not be certified retroactively, notwithstanding the provisions of Wyoming Medicaid Rules Chapter 3 allowing for retroactive Medicaid enrollment.

(h) All providers must adhere to the conditions for Medicaid provider participation contained in Wyoming Medicaid Rules Chapter 3.

(i) The Department shall notify all providers that their CCW certification is expiring at least ninety (90) calendar days prior to the certification expiration date. The notification shall detail requirements that the provider shall meet in order to renew their certification.

(j) Providers shall submit verification that they have met all applicable certification renewal requirements forty-five (45) calendar days prior to their certification expiration date.

(i) During recertification, the Department may require an on-site inspection.

(ii) Providers that do not submit the required verification for recertification as described in this Section shall submit transition plans to the Department detailing the transition of each participant to other settings within twenty (20) calendar days prior to their certification expiration date.

(k) Providers that fail to submit the applicable certification renewal requirements to the Department will be notified in writing that the decertification process has been initiated.

(l) A provider shall be considered voluntarily decertified if the provider fails to complete the certification renewal process and fails to respond to the Department's attempts at contacting the provider for certification renewal.

(i) A provider that is voluntarily decertified may reapply for certification at any time.

(ii) Voluntary decertification is not considered an adverse action and is not subject to the fair hearing process under Wyoming Medicaid Rules Chapter 4.

(m) Falsifications of statements or documents, or any concealment of material fact may result in a denial of certification, denial of recertification, decertification, or referral for criminal prosecution.

(n) Providers may dispute an adverse action related to the denial of a renewal of certification in accordance with Wyoming Medicaid Rules Chapters 4 and 16.

Section 9. Provider Participation Standards and Decertification.

(a) A CCW provider must offer and render services without discrimination based on race, religion, political affiliation, gender, national origin, age, sexual orientation, gender expression, or disability, except as allowed by law.

(b) A CCW provider shall identify in writing their potential conflicts of interest, including those of their employees, with the participant, other service providers on the participant's service plan, relatives of the participant, or any legal guardian of the participant, and address how a conflict of interest shall be mitigated. The provider shall share this information with a participant and/or their legal guardian and the case manager prior to being added to the participant's service plan.

(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.

(d) A CCW provider shall institute policies and procedures as required by the Department to assure the safe and effective delivery of waiver services.

(e) A CCW provider shall deliver services that meet the service definitions established in the CCW Service Index and align with the participant's service plan.

(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. A CCW provider shall make all reasonable efforts to avoid disruptions of service delivery that would jeopardize the participant's health and welfare.

(g) A CCW provider shall notify the participant and the Department in writing thirty (30) calendar days prior to ending services with the participant. All transitions occurring from this decision shall follow standards and requirements established by the Department.

(h) If acting as an employer or contractor of personnel, a provider entity shall ensure:

(i) Personnel operate within the limits and scope of practice allowed under the individual's professional licensure or certification and within the limits of the entity's licensure or certification, if applicable; and

(ii) Routine confirmation that it complies with the U.S. Department of Health and Human Services, Office of Inspector General's regulations and guidance on employment of individuals excluded from participation in federally funded health care programs.

(i) A provider shall comply with all applicable state and federal laws in safeguarding information about applicants and participants.

(j) The Department shall conduct monitoring and enforcement activities as necessary to assure compliance with its established CCW provider qualifications and participation standards.

(k) The Department may attempt to resolve any suspected noncompliance with this Chapter by issuing technical assistance or corrective action. Technical assistance and corrective action are not considered an adverse action and are not subject to the fair hearing process pursuant to Medicaid Rules Chapter 4.

(i) When requested, providers shall submit corrective action plans that address each area of suspected noncompliance to the Department's satisfaction. Corrective action plans include identification of the area of noncompliance, the actions that will be taken to address the area of noncompliance, the individual(s) responsible for each action, and anticipated due dates of each action.

(ii) If an approved corrective action plan is not submitted and implemented to address all areas of suspected noncompliance, the Department may take adverse action against the provider.

(l) A CCW provider is subject to an inspection by the Department at any time to ensure compliance with provider requirements.

(m) The Department shall decertify a CCW provider upon termination of the provider's Medicaid enrollment pursuant to Wyoming Medicaid Rules Chapter 3.

(n) The Department may take adverse action against a CCW provider that fails to meet standards established by the Department.

(o) The Department may decertify a CCW provider for any violation of standards established by the Department.

(p) A CCW provider that is subject to adverse action pursuant to this Chapter shall be provided a notice of adverse action and an opportunity for due process pursuant to Wyoming Medicaid Rules Chapters 4 and 16.

Section 10. Background Screening Requirements.

- (a) All CCW providers and associated staff members shall be required to complete a background screening in accordance with this Section. This requirement applies to any person who may have unsupervised access to waiver participants during the provision of services, including managers, supervisors, direct-care staff, and workers hired through participant-direction.
- (b) Individuals who fail a background screening shall not have access to waiver participants, supervise staff, or provide or bill for waiver services on behalf of a CCW provider.
- (c) Volunteers under the age of eighteen (18) shall be under the direct supervision of a provider or staff member who has passed a background screening. An individual convicted of a sexual offense shall not be a volunteer.
- (d) To satisfy the requirements of this Section, a background screening must include the following:
- (i) A Wyoming Department of Family Services Central Registry Screening;
 - (ii) A United States Department of Health and Human Services, Office of Inspector General's Exclusions Database search result;
 - (iii) A national, name and social security based criminal history database screening; and
 - (iv) A United States Department of Justice, National Sex Offender Public Website search.
- (e) Workers employed under the participant-directed service delivery option shall complete the background screening through the contracted Financial Management Services.
- (f) An individual or entity shall fail a background screening under this Section if the results confirm they:
- (i) Are listed on the Wyoming Department of Family Services Central Registry;
 - (ii) Are listed as excluded from federally funded healthcare programs; or
 - (iii) Have been convicted of any barrier crime listed in Wyo. Stat. Title 6, Chapter 2 (Offenses Against a Person) and Chapter 4 (Offenses Against Morals, Decency and Family).
- (g) At the discretion of the provider or employer of record, an individual worker may provide unsupervised services on a provisional basis while the results from a submitted

background screening are pending if no disqualifying crimes, offenses, or other exclusions are disclosed in the worker's employment application.

(h) Background screenings are not transferrable from one provider entity or employer to another.

(i) All CCW providers and associated staff shall be required to complete a full subsequent background screening in accordance with this Section every five (5) years. Those who fail to pass the subsequent background screening shall not supervise, provide, or bill for waiver services, or have unsupervised access to participants on behalf of a provider.

(j) Background screening results shall not be altered in any manner. If altered, the screening results shall be considered null and void.

(k) The Department may request a background screening at its own expense as part of an investigation.

(l) A provider shall maintain employee files including documentation of successful criminal history and background screening results, which must be provided to the Department upon request.

Section 11. Provider Training Standards.

(a) Prior to the delivery of services, providers and direct care staff shall receive training in all areas established by the Department.

(b) Providers shall maintain documentation of participant-specific and Department established training that demonstrates staff members are qualified to provide waiver services. Documentation shall include verification of completed trainings, date training was completed, who conducted the training, and how the staff member demonstrated understanding.

(c) Providers shall designate one staff member to receive training on the service plan by the participant's case manager.

(d) Providers and direct care workers shall receive participant-specific training prior to the service plan start date or before any changes to the service plan occur in accordance with Department standards.

Section 12. Covered Waiver Services.

(a) CCW services, as outlined in the CCW Service Index, supplement but do not supplant other services available to participants, such as: Wyoming Medicaid State Plan services; services available through other federal, state, or local public programs; or the supports that families and other community resources provide. The categories of services furnished under the CCW program include:

- (i) Caregiver Support;
- (ii) Case Management;
- (iii) Community Transition Services;
- (iv) Day Services;
- (v) Equipment, Technology, Modifications;
- (vi) Home-Based Services;
- (vii) Home-Delivered Meals;
- (viii) Non-Medical Transportation;
- (ix) Nursing; and,
- (x) Round-the-clock services.

(b) Costs for room and board are not covered or included in the reimbursement for CCW services, except as provided in 42 C.F.R. § 441.310(a)(2). Participants who receive services in a provider-owned or controlled residential setting are responsible for all room and board costs pursuant to the participant's lease or similarly enforceable residential agreement. The lease or agreement must not include charges for covered CCW services and must include an itemized list of any additional charges beyond room and board.

Section 13. Freedom of Choice.

- (a) In selection of services, the participant has the freedom to choose:
 - (i) Between receiving services in an institutional setting or through the CCW;
 - (ii) From among all allowable service alternatives and service delivery options offered under the CCW; and
 - (iii) From among all willing and qualified providers enrolled and accepting referrals for services in the participant's county of residence. In areas where availability of case management providers is limited, the participant has the freedom to choose a case management agency from a different county, as long as the agency is certified to provide case management services in the participant's county of residence.

Section 14. Participant Rights and Safeguards.

(a) A participant has the same legal rights and responsibilities guaranteed to all U.S. citizens under the United States and Wyoming Constitutions and federal and state laws.

(b) A participant's rights shall not be restricted except in accordance with state or federal law and Department requirements.

(c) A participant's right to be free from physical, mechanical, and chemical restraints (collectively restraints) shall not be restricted unless authorized in writing by the participant or the participant's legal guardian. Any use of restraints shall meet the following conditions:

(i) Restraints shall not be used for the purposes of discipline or convenience to the provider.

(ii) Restraints shall not be authorized unless:

(A) The participant receives services in an assisted living or skilled nursing facility; and

(B) The restraint is supported by a specific assessed need and justified in the participant's service plan.

(d) Any document authorizing the use of restraints shall be made a part of the participant's permanent file.

(e) In emergency circumstances, restraints may be used only to ensure the immediate physical safety of the participant, provider, or other persons, and when the risk of injury without the restraint is greater than the risk associated with the restraint.

(i) Emergency restraints must be time limited and removed immediately when the participant no longer presents a risk of immediate harm to themselves or others.

(ii) Any emergency use of restraint shall be reported to the Department within three (3) business days.

(f) A participant's right to full access to the greater community, privacy, independence in making life choices, freedom to control their own schedules and activities, access to food, and ability to have visitors of their choosing at any time shall not be restricted by a provider unless the restriction supports a specific assessed need and is documented in the participant's service plan, including:

(i) The specific and individualized assessed need;

(ii) The positive interventions and supports used prior to any modifications to the person-centered service plan;

- (iii) Less intrusive methods of meeting the need that have been tried but were unsuccessful;
 - (iv) A clear description of the condition that is directly proportionate to the specific assessed need for a restriction;
 - (v) How data is regularly collected and reviewed to measure the ongoing effectiveness of the restriction;
 - (vi) Established time limits for periodic reviews, not to exceed six (6) months, to determine if the restriction remains necessary or can be terminated;
 - (vii) Informed consent of the participant or a legal guardian; and
 - (viii) Assurance that restrictions and restrictive interventions will cause no harm to the individual.
- (g) A provider shall not use an aversive technique to modify a participant's behavior. Aversive techniques include any intervention that causes pain, harm, discomfort, seclusion, or social humiliation.
- (h) A provider shall not request or require a participant to agree to any rights restriction as a condition of receiving services.
- (i) A provider shall not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against any individual who exercises any right established by state or federal law.
- (j) Any individual who is affiliated with the CCW and has a reasonable suspicion that a participant's health or safety is in jeopardy shall immediately contact the appropriate entities in accordance with state and federal law and Department requirements.

Section 15. Incident Reporting and Complaints.

- (a) A provider shall develop and maintain incident reporting policies and procedures, and shall review internal incident data in accordance with Department requirements.
- (b) After assuring the health and safety of the participant, a provider shall immediately report the following critical incidents to the Department, the participant's case manager, and legal guardian in accordance with Department requirements:
- (i) Suspected abuse as defined by W.S. 35-20-102;
 - (ii) Suspected neglect as defined by W.S. 35-20-102;
 - (iii) Suspected self-neglect as defined by W.S. 35-20-102;

- (iv) Suspected abandonment as defined by W.S. 35-20-102;
 - (v) Suspected exploitation, including sexual exploitation and medication diversion, as defined by W.S. 35-20-102;
 - (vi) Suspected intimidation as defined by W.S. 35-20-102;
 - (vii) Suspected sexual abuse as defined by W.S. 35-20-102; and
 - (viii) Death that is not the result of an expected medical diagnosis.
- (c) After assuring the health and safety of the participant, a provider shall report the following non-critical incidents to the Department, the participant's case manager, and the legal guardian within three (3) business days:
- (i) Serious injury to the participant;
 - (ii) Elopement;
 - (iii) Any use of seclusion;
 - (iv) Unscheduled medical or behavioral admissions and emergency room visits that occur while the participant is receiving a CCW service;
 - (v) Use of restraint;
 - (vi) Unauthorized use of restrictive interventions; and
 - (vii) Other incidents of death.
- (d) A provider shall comply with the Department, case manager, and other state agency or law enforcement requests for information relating to any incident.
- (e) A provider's failure to report incidents in accordance with this Section may result in corrective or adverse action, including termination of the provider's certification.
- (f) The Department or its designee shall conduct an investigation of all reported incidents. The scope and duration of the investigation will vary based upon incident circumstances and follow up actions required. The investigation is not considered concluded until all follow up actions have been taken to reasonably assure the health and safety of the participant(s).
- (g) A provider shall have policies and procedures for handling complaints in accordance with any requirements of the Long Term Care Ombudsman and the Department.

Section 16. Home and Community-Based Settings Standards.

(a) All home and community-based settings must meet the following criteria and standards:

(i) Ensure the participant's right to privacy, dignity and respect, freedom from coercion and restraint, and receipt of services in settings that are physically accessible to the participant shall never be restricted.

(ii) Be integrated in and support the participant's full access to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community to the same degree as individuals not receiving waiver services.

(iii) Be selected by the participant from among settings options, including non-disability specific settings. The settings options and selection shall be identified and documented as part of the service planning process described in Section 17 and based upon the participant's needs and preferences.

(iv) Optimize, but not regiment, the participant's initiative, autonomy, and independence in making life choices, including but not limited to choices regarding daily activities, physical environment, and with whom to interact.

(v) Facilitate the participant's choice regarding services and supports, and who provides them.

(b) Waiver services delivered in provider-owned or controlled residential settings shall meet the following additional standards:

(i) The participant's unit or dwelling must be a specific physical place that can be owned, rented, or occupied under a lease or other legally enforceable residential agreement where the participant has the same responsibilities and protections, including protection from eviction that tenants have under state, county, city, or other laws.

(ii) The participant must have privacy in their sleeping or living unit.

(A) Units must have entrance doors that can be locked by the participant, with only appropriate staff having keys to doors.

(B) Participants sharing units must have a choice of roommates in that setting.

(C) The participant must have the freedom to furnish and decorate their sleeping or living units included within the terms of the lease or other residential agreement.

(iii) The participant must have the freedom and support to control their own schedule and activities.

(iv) The participant must have access to food at any time.

(v) The participant must be able to have visitors of their choosing at any time.

(c) Any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, or in a building on the grounds of, or immediately adjacent to, a public institution, or any other setting that has the effect of isolating individuals from the broader community of individuals not receiving CCW services will not be considered a home and community based setting.

(d) Any restriction of the rights established in this Section shall be supported by a specific assessed need and justified in the service plan as described in Section 14.

Section 17. Case Management and Service Planning Requirements.

(a) Upon application, participants shall select a case management agency from a list of all CCW qualified agencies serving the participant's county of residence. The participant's selected case management agency shall assign one (1) person to serve as the primary case manager, based on the participant's preferences.

(b) Case managers shall assist the participant with:

(i) Accessing CCW and Wyoming Medicaid State Plan services;

(ii) Identifying and coordinating access to medical, social, educational, employment and other services, regardless of the funding source; and

(iii) Identifying and coordinating natural supports.

(c) The case manager shall conduct a comprehensive assessment of the participant's strengths, needs, goals, preferences, and any potential health and safety risks using the Department's prescribed methods, tools, and procedures.

(d) The case manager shall develop a person-centered service plan using Department identified systems and processes. The service plan shall:

(i) Assure the health and welfare of the participant;

(ii) Acknowledge the participant's strengths, and promote the participant's self-determined goals;

(iii) Address the participant's assessed needs;

- (iv) Include a plan to mitigate identified risks;
- (v) Accommodate participant preferences to the extent possible;
- (vi) Reflect the scope, frequency, and duration of the services chosen by the participant;
- (vii) Include a backup plan or identify an alternate service or support to ensure the continuity of services; and
- (viii) Consider services and supports available through the CCW, the Medicaid State Plan, other federal, state, and local public programs, the participant's family or natural support system, and any other relevant community resources.

(e) The case manager shall facilitate a person-centered planning process which shall support and encourage the participant to direct service plan development to the maximum extent possible.

(i) The case manager shall abide by the participant's choice of individuals included and excluded from the service plan development process. If the participant's decision-making authority has been conferred to a legal guardian, the case manager shall involve the representative in the service plan development process to the extent authorized.

(ii) The case manager shall provide education and information on the long-term care programs and service options available to the participant.

(iii) The case manager shall provide the participant a current list of all HCBS enrolled providers serving the participant's county of residence. The case manager shall disclose any ownership of, affiliation with, or financial interest in any potential waiver service providers.

(iv) The case manager shall provide information on participant-directed services to include potential benefits, liabilities, risks, and responsibilities associated with the service delivery option. The case manager shall provide this information during the following times:

- (A) Initial service plan development;
- (B) At annual service plan reviews;
- (C) Whenever the service plan is updated due to a significant change in the participant's condition; and
- (D) At any other time the participant requests.

(v) The case manager shall facilitate discussion among the individuals participating in the service plan development process in order to assist the participant in determining which services, supports, and delivery options will be included in the service plan.

(vi) The case manager shall ensure service planning activities are conducted at times and locations convenient to the participant.

(vii) The case manager shall ensure the service planning process reflects the cultural considerations of the participant and shall provide information in plain language and in a manner that is accessible to participants with disabilities or with limited English proficiency.

(f) The case manager shall hold a service plan team meeting to review and update the service plan at least annually.

(g) The case manager shall hold a service plan team meeting upon request by the participant or in response to a significant change in the participant's condition or circumstances disclosed through monitoring and evaluation activities.

(h) The case manager shall coordinate and monitor all services and supports included in the service plan.

(i) The case manager shall coordinate transitions when the participant changes, stops, or adds providers to the service plan, including requested changes of a case manager.

(j) The case manager shall provide participant-specific training to each provider delivering a direct service listed in the service plan.

(k) The Department may establish caseload limits to ensure case managers effectively coordinate services for all participants on their caseloads.

(l) The Department shall establish conflict of interest protections as necessary to safeguard against undue influence or restrictions on the participant's freedom of choice. At minimum:

(i) The case manager must not be related by blood or marriage to the participant, or to any person paid to provide CCW services to the participant;

(ii) The case manager must not share a residence with the participant or with any person paid to provide CCW services to the participant;

(iii) The case manager and case management agency must not be financially responsible for the participant;

(iv) The case manager and case management agency must not be empowered to make financial or health-related decisions on behalf of the participant; and

(v) The case manager and case management agency must not own, operate, be employed by, or have a financial interest in any entity that is paid to provide CCW services to the participant. Financial interest includes a direct or indirect ownership or investment interest or any direct or indirect compensation arrangement.

(m) In the event a conflict of interest exists between the participant's chosen case manager and CCW service provider, the case manager shall document the conflict, and shall assist the participant in selecting a new case manager, case management agency, and/or CCW service provider as necessary to eliminate the conflict of interest.

Section 18. Participant Direction of CCW Services.

(a) The participant, legal guardian, or another appropriate individual designated by the participant may serve as the Employer of Record (EOR) and assume responsibility for managing the activities associated with the direction of CCW services.

(b) The EOR must sign an agreement of understanding that they are willing and able to assume the EOR responsibilities and comply with established EOR standards.

(c) The EOR cannot delegate or assign the responsibilities of the EOR to another person or entity and cannot be reimbursed to provide CCW services to the participant.

(d) The EOR shall carry out the duties and responsibilities associated with participant direction of CCW services, such as:

(i) Recruiting employees;

(ii) Verifying that employees meet the minimum qualifications established by the Department;

(iii) Specifying, verifying, and maintaining documentation of any additional employee qualifications;

(iv) Hiring employees as the common law employer;

(v) Determining employee duties consistent with the service scope and limitations;

(vi) Determining employee wages within the limits established by the Department;

(vii) Scheduling employees;

(viii) Orienting and instructing employees in their duties;

(ix) Supervising employees;

- (x) Evaluating employee performance;
- (xi) Verifying the time worked by employees and approving time sheets; and
- (xii) Terminating employees.

(e) An EOR's failure to carry out duties and responsibilities in accordance with this Section may result in the EOR being disqualified to act as an EOR by the Department.

(i) The Department shall maintain a list of disqualified EOR's and employees and prohibit their future employment under the participant-directed service delivery option.

(ii) The Department shall establish policies and procedures for disqualification, placement on the list, and the EOR's opportunities to dispute disqualification and removal from such a list.

(f) The participant's case manager shall provide information and assistance in support of participant direction, such as:

(i) Assisting the EOR in obtaining and submitting employer enrollment documentation;

(ii) Determining the participant-directed budget based on the participant's assessed needs and the approved methodology;

(iii) Assisting the participant or EOR in obtaining and completing required documents;

(iv) Coordinating with the Fiscal Management Services agency;

(v) Monitoring participant-directed service effectiveness, quality, and expenditures as determined by the Department;

(vi) Reviewing and updating the participant-directed budget as required by the Department; and

(vii) Facilitating the transition of a participant to a different service delivery option when the participant voluntarily terminates, or is involuntarily terminated from, participant direction.

(g) Participant-Directed Employees.

(i) The Department shall establish the minimum employee qualifications for all participant-directed eligible services.

(ii) The EOR may require their employees to meet additional training, education, or experience requirements in addition to the Department's minimum qualifications.

(iii) The EOR may hire a participant's relative or spouse as an employee provided they meet the requirements and standards established by the Department.

(h) The participant may choose to withdraw from the participant-directed service delivery option at any time.

(i) Participants who elect to voluntarily withdraw from the participant-directed service delivery must contact their case manager to facilitate the transition to an alternative service delivery option.

(ii) Participants who voluntarily withdraw from the participant-directed service delivery option may return to the participant-directed service delivery option at any time.

(i) Participants shall be involuntarily terminated from the participant-directed service option if they no longer meet the Departments standards and requirements.

(i) Participants involuntarily terminated from the participant-directed service option will be provided a Notice of Adverse Action and informed of the opportunity to request a fair hearing in accordance with Wyoming Medicaid Rules Chapter 4.

(ii) Participants who are involuntarily terminated from participant direction may be prohibited from electing the participant-directed service delivery option in the future.

Section 19. CCW Service Authorization and Reimbursement.

(a) CCW service authorization and reimbursement for service claims shall meet the same standards and requirements established in Wyoming Medicaid Rules Chapter 3.

(b) The provider shall make billing information available to the case manager by the tenth (10th) business day of the month following the month the claim was submitted for payment.

Section 20. Service Documentation Standards.

(a) A provider shall document the following information whenever a service is provided:

(i) The location of services;

(ii) The date of service, including year, month, and day;

(iii) The time services begin and end, using either AM and PM or military time, with documentation for each calendar day, even when services span a period longer than one calendar day;

(iv) An initial or signature of the staff member performing the service; and

(v) A detailed description of services provided in accordance with Department standards and requirements.

(b) A provider shall document services electronically or in writing in accordance with Department standards.

(c) Electronic documentation shall have automated tracking of all attempts to alter or delete information that was previously altered.

(d) Electronic documentation shall include electronic signatures and automatic date stamps.

(e) A provider delivering a waiver service requiring electronic visit verification (EVV) shall utilize the Department's EVV system or another operational EVV system that complies with Department policy and federal requirements, including those for the information gathered and verified. Another EVV system may not be used unless it connects to and interacts with the Department's EVV system for integration and billing of waiver services.

(f) A provider shall separately maintain all written or electronic service documentation to support the provision of service, notwithstanding the maintenance of documentation by others for purposes of claims submission.

(g) The provider shall make service documentation, as described in Section 20(a), 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.

(h) The case manager shall submit service documentation, in a manner established by the Department, by the tenth (10th) business day of the month following the month that the case management service was provided.

(i) The case manager shall maintain a participant's file and service documentation.

(i) The case manager shall assure that all information, including but not limited to guardianship paperwork and physical and mailing addresses of the participant, legal guardian, and other contacts is updated and accurate at all times. The case manager shall notify the Department and other providers of any changes.

(ii) The case manager shall securely store and retain all confidential documentation received from other providers for a twelve (12) month period from the month services were provided, and shall follow safe destruction policies, even if the participant changes case managers.

(iii) The case manager shall document all monitoring and evaluation activities, and follow-up on concerns and actions completed.

(j) All documentation shall be made available to the Department upon request.

(k) A provider or case manager that fails to make documentation available to the Department as required in this Section may receive a corrective or adverse action.

Section 21. Statewide Information System.

(a) All individuals who have been determined eligible for Medicaid waiver services shall be included in the statewide information system used by the Department for planning, monitoring, and analysis of the Medicaid waiver program. Information in the system is considered confidential and shall not be released without proper authorization, or otherwise as required by law.

(b) Providers shall submit data on programs, participant outcomes, costs, and other information as required by the Department.

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