

SENATE FILE NO. \_\_\_\_\_

Long term care choices.

Sponsored by: Joint Labor, Health and Social Services  
Interim Committee

A BILL

for

1 AN ACT relating to long term care and the Wyoming Medical  
2 Assistance and Services Act (Medicaid); providing choices  
3 and options in long term care for Medicaid clients;  
4 providing less restrictive and less expensive long term  
5 care for Medicaid clients; modifying the Medicaid  
6 reimbursement formulas for nursing homes and other long  
7 term care facilities; modifying limitations on new nursing  
8 home construction; expanding the Medicaid home and  
9 community based waiver program; regulating the entry of  
10 people into long term care; providing consultation to help  
11 individuals and their families understand their long term  
12 care options; authorizing application to the federal  
13 government for Medicaid program long term care waivers;  
14 authorizing and regulating an adult foster home care  
15 system; authorizing a greenhouse concept long term care  
16 pilot program; encouraging expanded use of hospice care;

1 granting rulemaking authority; providing appropriations;  
2 and providing for an effective date.

3

4 *Be It Enacted by the Legislature of the State of Wyoming:*

5

6 **Section 1.** W.S. 42-6-101 through 42-6-120 are created  
7 to read:

8

9

CHAPTER 6

10

LONG TERM CARE CHOICES PROGRAM

11

12 **42-6-101. Short title.**

13

14 This act shall be known and may be cited as the "Wyoming  
15 Long Term Care Choices Act".

16

17 **42-6-102. Definitions.**

18

19 (a) As used in this act:

20

21 (i) "Adult foster care" means care in a home  
22 licensed as an adult foster home pursuant to this act and  
23 Wyoming Statutes article 9, chapter 2, title 35 and care

1 provided to a resident of the home while temporarily away  
2 from the adult foster home;

3

4 (ii) "Adult foster home" means any family home  
5 or facility in which residential care is provided in a  
6 homelike environment for five (5) or fewer adults who are  
7 not related to the provider by blood or marriage. The  
8 homes shall be regulated in accordance with Wyoming  
9 Statutes article 9, chapter 2, title 35 and this act which  
10 shall govern in case of conflict;

11

12 (iii) "Assisted living facility" means as  
13 defined in W.S. 35-2-901(a)(xxii);

14

15 (iv) "Caregiver" means any person licensed as a  
16 caregiver pursuant to this act who provides care in an  
17 adult foster home, greenhouse concept nursing home,  
18 assisted living facility or home health care setting;

19

20 (v) "Department" means the department of health;

21

22 (vi) "Greenhouse concept nursing home" means

23 LSO: Doug Osborn will furnish the draft of this definition,

1 and may change the name by which the facility is referred  
2 to--Greenhouse concept may be a specific trade name;

3  
4 (vii) "Home medical testing" means medical  
5 testing designed to be done in the home of the person being  
6 tested by a person who is not a licensed health care  
7 professional and includes but is not limited to testing  
8 done using a home blood pressure monitor or a home diabetes  
9 management blood sugar monitor;

10  
11 (viii) "Long term care assessment" means a form  
12 and an assessment process conforming with relevant federal  
13 regulations and designed to measure the abilities and  
14 disabilities of a person in the activities of daily living  
15 to determine the person's need for long term care. As of  
16 January 1, 2007 the department of health form LT-101  
17 entitled "Assessment of Medical Necessity for Long Term  
18 Care" and the assessment needed to complete it shall be the  
19 long term care assessment;

20  
21 (ix) "Medicaid" means the program administered  
22 by the state pursuant to the Wyoming Medical Assistance and  
23 Services Act and this act and partly funded by the federal

1 government pursuant to Title XIX of the federal Social  
2 Security Act;

3

4 (x) "Nursing home" means a nursing care facility  
5 as defined in W.S. 35-2-901(a)(xvi) licensed pursuant to  
6 Wyoming Statutes article 9, chapter 2, title 35;

7

8 (xi) "Residential care" means the provision of  
9 room and board and services that assist the resident in  
10 activities of daily living including but not limited to  
11 bathing, dressing, grooming, eating, medication management,  
12 incontinence care, home medical testing, money management  
13 or recreation;

14

15 (xii) "Resident manager" means a person licensed  
16 pursuant to this act who lives in and manages an adult  
17 foster care home or has an office in and manages a  
18 greenhouse concept nursing home;

19

20 (xiii) "This act" means W.S. 42-6-101 through  
21 42-6-120.

22

23 **42-6-103. Rulemaking; guidance.**

24

1 The department is authorized to promulgate rules and  
2 regulations to implement this act. The rules and  
3 regulations shall seek to implement the objectives of this  
4 act by changing the long term care system from one  
5 dominated by institutions to one emphasizing home, home-  
6 like and community based care alternatives and one driven  
7 by meaningful consumer choice.

8

9 **42-6-104. Consultative services; legislative finding.**

10

11 (a) The department shall contract with one (1) or more  
12 entities to provide consultative services for persons in need  
13 of long term care or at risk of being in need of long term  
14 care. The consultative services shall:

15

16 (i) Be available to any person in need of long  
17 term care in Wyoming and the person's family, guardian and  
18 any person authorized to make medical decisions on the  
19 person's behalf. A person in need of long term care who is  
20 of sound mind may designate who may receive consultative  
21 services concerning the person's long term care needs;

22

23 (ii) Set forth the alternatives for long term care  
24 that are available to the person;

1

2 (iii) Advise the person on the least restrictive  
3 alternatives for long term care that are available and  
4 practical;

5

6 (iv) Advise the person on the relative costs of  
7 options and the public assistance available;

8

9 (v) Respect and seek to implement to the extent  
10 possible the wishes of the person; and

11

12 (vi) Assist the person in making arrangements for  
13 long term care.

14

15 (b) Consultative services described in subsection (a)  
16 of this section shall be available free of charge to anyone  
17 entering or at risk of entering the long term care system  
18 and, on an as needed basis, to anyone in the long term care  
19 system.

20

21 (c) Except for stays of thirty (30) days or less for  
22 rehabilitation purposes or respite care, no person shall be  
23 admitted to a nursing home or an assisted living facility

1 until consultative services have been offered as provided  
2 in this section.

3

4 (d) Any public health nurse performing a long term  
5 care assessment evaluation on a person potentially in need  
6 of long term care shall refer that person to an appropriate  
7 consultative service contractor and shall, unless  
8 prohibited by the person, furnish the consultative service  
9 contractor with a copy of the completed long term care  
10 assessment form. Any hospital planning to discharge a  
11 patient who is at risk of needing long term care shall  
12 refer the patient to an appropriate consultative service  
13 contractor.

14

15 (e) Any appropriate private for profit entity,  
16 private nonprofit entity, political subdivision, senior  
17 citizens center or organization affiliated with the  
18 University of Wyoming or a community college may receive a  
19 contract from the department to provide consultative  
20 services under this section. Consultative service  
21 contracts shall not exceed five (5) years in length and  
22 shall be subject to termination for cause and for lack of  
23 legislative appropriations. The contracts may cover  
24 specified geographic areas and may cover people with



1 particular characteristics or affiliations. The department  
2 may elect to let contracts to multiple organizations who  
3 will compete for business. The department shall seek to  
4 have in each county at least one (1) contractor with a  
5 local preference.

6

7 (f) When a person is at immediate risk of having to  
8 move to a more restrictive form of long term care,  
9 consultative services contractors shall seek to have an  
10 initial meeting and preliminary consultation with the  
11 person within two (2) working days of receiving a request  
12 for consultation or a referral. The contract with the  
13 consultative services contractor shall provide that  
14 repeated unjustified failure to meet this standard shall be  
15 cause to terminate the contract.

16

17 (g) Consultative services shall be funded to the  
18 extent possible through the Medicaid program, but may be  
19 funded with state funds to the extent federal Medicaid  
20 funding is not available or if federal regulations or  
21 constraints make the program ineffective or unable to  
22 conform with the requirements and objectives of this act.  
23 Consistent with approved budgets, the department shall make  
24 available a pool of state funds to meet transitional needs

1 of clients moving from a more restrictive to a less  
2 restrictive environment in circumstances where Medicaid  
3 funds are not available due to federal restrictions. If  
4 sufficient funds are available these state funds may also  
5 be used to meet short term needs of clients seeking to  
6 avoid placements in more restrictive environments. The  
7 department shall govern the expenditure of these funds  
8 though contracts, policies and rules and regulations as  
9 needed.

10

11 (h) The legislature finds that a sufficiently large  
12 percentage of the people in nursing homes are funded at  
13 least in part through the Medicaid program and that the  
14 consultative service provided by this section is needed to  
15 reduce state expenditures for this necessary support of the  
16 poor.

17

18 **42-6-105. Long term care assessment evaluation**  
19 **required.**

20

21 (a) No person shall be admitted to a nursing home,  
22 except for a stay of thirty (30) days or less for  
23 rehabilitation purposes or respite care, unless a public  
24 health nurse has performed a long term care assessment

1 evaluation and the score on that evaluation is sufficient to  
2 permit the person to be admitted to the nursing home with the  
3 Medicaid program paying the costs if other eligibility  
4 criteria are met. If more than thirty (30) days are needed  
5 for rehabilitation purposes or are needed to remodel a  
6 person's home or prospective dwelling place to accommodate  
7 the person's disability and the person retains a viable  
8 nonnursing home place to live, the public health nurse may  
9 temporarily waive this requirement for one (1) additional  
10 period of thirty (30) days.

11

12 (b) The legislature finds that the requirement of  
13 subsection (a) of this section is necessary because, even if  
14 a person can pay for nursing home care upon admission, a  
15 person admitted before nursing home care is necessary is  
16 likely to exhaust available funds and prematurely become a  
17 client of the Medicaid program.

18

19 **42-6-106. Greenhouse concept pilot program**  
20 **authorized.**

21

22 LSO: Doug Osborn will furnish the draft text for this  
23 section

24

1           **42-6-107. Licensing of individuals; definitions.**

2

3           (a) As used in W.S. 42-6-106 through 42-6-113:

4

5           (i) "Provider" means a person operating an adult  
6 foster home and includes a resident manager, but does not  
7 include the owner or lessor of the building used for the  
8 adult foster home unless the owner or lessor is also the  
9 operator of the adult foster home;

10

11           (ii) "Substitute caregiver" means any person  
12 licensed as a caregiver pursuant to this act who provides  
13 care and services in an adult foster home in the absence or  
14 the provider or resident manager.

15

16           (b) For the purposes of W.S. 42-6-106 through 42-6-113,  
17 "adult foster home" does not mean:

18

19           (i) Any house, institution, hotel or other  
20 similar place that supplies board and room or board and  
21 room and recreation without any substantial element of  
22 residential care;

23

1           (ii) Any other institution or facility regulated  
2 or licensed pursuant to Wyoming Statutes article 9, chapter  
3 2, title 35.

4  
5           (c) Any person who is a provider, residential  
6 manager, or substitute care giver for adult foster care or  
7 greenhouse concept nursing home under this section shall be  
8 licensed by the department as provided by this subsection.  
9 In licensing an individual, the department shall:

10

11           (i) Charge a one-time fee not to exceed twenty  
12 dollars (\$20.00) which shall be deposited in the general  
13 fund;

14

15           (ii) Ensure that the individual has had  
16 appropriate training, as specified by rules and regulations  
17 promulgated by the department. Training that qualifies the  
18 individual as a certified nursing assistant plus any  
19 additional training needed to be a home health care  
20 provider shall be adequate, but the department may allow  
21 other training and may allow more advanced training to be  
22 substituted;

23

1           (iii) Complete a criminal history records check  
2 unless the individual is licensed under title 33 in a  
3 health related profession which requires a criminal records  
4 check and which is authorized to revoke or suspend the  
5 license of an individual for criminal violations relevant  
6 to the profession;

7

8           (iv) Not license anyone who has been convicted  
9 of one (1) or more crimes that are as determined by rules  
10 and regulations promulgated by the department to be  
11 substantially related to the provision of adult foster  
12 care. The department may, in its discretion, waive this  
13 provision if the conviction is at least ten (10) years old  
14 and there is evidence the person does not present a danger  
15 to clients.

16

17           (d) If a person is licensed pursuant to this act and  
18 title 33, this act shall govern during the provision of adult  
19 foster care or care in a greenhouse concept nursing home if  
20 this act allows functions not allowed under the relevant  
21 scope of practice under title 33.

22

23           **42-6-108. Adult foster care homes; licensure;**  
24 **suspension or revocation.**

1

2 (a) The department shall license adult foster care  
3 homes subject to the following:

4

5 (i) The applicant shall pay a one-time fee of  
6 twenty dollars (\$20.00) which shall be deposited in the  
7 general fund;

8

9 (ii) The applicant shall certify that the  
10 provider or resident manager who will be on site will be  
11 licensed by the department pursuant to this section or W.S.  
12 42-4-106 before the home receives any resident clients;

13

14 (iii) The department, a public health nurse or  
15 other employee of a local department of health shall  
16 complete an inspection of the proposed adult foster care  
17 home;

18

19 (iv) The proposed home shall comply with all  
20 state and local building, sanitation, utility, fire and  
21 zoning codes applicable to single family dwellings;

22

1           (v) The home shall have the ability to evacuate  
2 all residents within three (3) minutes in case of  
3 emergency;

4  
5           (vi) The home shall provide a private room with  
6 a handicapped accessible bathroom for all resident clients.  
7 Spouses occupying the same room by mutual consent shall be  
8 deemed to have a private room.

9  
10          (b) The department may, after notice and opportunity  
11 for hearing, revoke or suspend any license issued pursuant  
12 to this section or W.S. 42-6-106 or prohibit a facility  
13 from accepting new resident clients, may place conditions  
14 on the continuation of a license, or may require an  
15 individual or a facility to take specified remedial actions  
16 within a specified time, if:

17  
18           (i) There is a threat to the health, safety or  
19 welfare of any client;

20  
21           (ii) There is credible evidence of abuse,  
22 neglect or exploitation of any resident;

23



1           (iii) The facility is not operated in compliance  
2 with this act or any rules and regulations promulgated  
3 pursuant to this act; or

4  
5           (iv) In the case of an individual, the  
6 individual is convicted of a crime that would have  
7 precluded his licensure under this act.

8  
9           (c) If, in the professional judgment of the state  
10 health officer, there is a clear and present threat to the  
11 health or safety of a resident, the state health officer  
12 may close an adult foster home and transfer the residents  
13 to another place. The department shall also initiate  
14 proceedings pursuant to subsection (b) of this section  
15 within three (3) working days.

16  
17           (d) The department shall complete a criminal records  
18 check on any individual, other than a resident or a  
19 resident's spouse, who at the time of licensure is expected  
20 to live in the adult foster home or who, after licensure,  
21 lives or comes to live in the adult foster home. The  
22 department may refuse to license a facility or prohibit the  
23 individual from living in the facility if he has been  
24 convicted of a crime substantially related to the provision

1 of health care and which would prohibit licensure of an  
2 individual pursuant to this section.

3

4 (e) Adult foster homes shall have a room that is  
5 generally used as a common dining room and an area, which  
6 may be part of the dining room, that is used as a common  
7 parlor or activity room. This subsection shall not be  
8 construed as requiring that residents eat all their meals  
9 in the common dining room.

10

11 (f) If the physical characteristics of the adult foster  
12 home do not encourage contact between the caregivers and  
13 residents and among residents, the provider shall demonstrate  
14 how regular contact will occur.

15

16 **42-6-109. Adult foster care; requirements.**

17

18 (a) No adult foster care home shall care for more than  
19 five (5) residents except that:

20

21 (i) A resident's spouse who does not suffer from a  
22 disability requiring long term care does not count against  
23 the limit of five (5). The department shall define by rule

1 and regulation what a disability requiring long term care is  
2 for purposes of this section;

3

4 (ii) If the spouse of a resident is living in the  
5 facility and acquires a disability requiring long term care,  
6 the facility may exceed the limit of five (5) but may not  
7 accept any new residents as long as the limit is exceeded.

8

9 (b) The department may limit the number of residents  
10 that a facility may care for if one (1) or more of the  
11 residents exceed specified levels of severity or care needs,  
12 provided that if residents acquire additional disabilities  
13 they may continue to be cared for by the facility regardless  
14 of the limits, but new residents exceeding the limits may not  
15 be accepted.

16

17 (c) In an emergency, the department may allow a person  
18 who has not been licensed as a resident manager or a  
19 caregiver to serve as such for a limited period provided that  
20 the person begins at once the steps necessary to be licensed.  
21 In these circumstances the department shall make arrangements  
22 for a public health nurse or an inspector from the department  
23 or from a local health department to make frequent visits to

1 the adult foster care home to inspect and supervise the care  
2 given.

3

4 (d) Providers shall serve three (3) nutritionally  
5 balanced meals to residents each day.

6

7 (e) If a resident dies or leaves an adult foster home  
8 for medical reasons and indicates in writing an intent not to  
9 return, the provider may not charge the resident for more  
10 than fifteen (15) days after the resident leaves or the time  
11 specified in the contract between the provider and the  
12 resident, whichever is less.

13

14 (f) Providers shall give at least thirty (30) days  
15 written notice to residents or their families or guardians or  
16 other responsible persons before selling, leasing or  
17 transferring the adult foster home business or the real  
18 property on which the adult foster home is located.  
19 Providers shall inform any real estate agents engaged to sell  
20 or lease the business or real property and any prospective  
21 buyers, lessees or transferees that the license to operate an  
22 adult foster home is not transferable and shall refer them to  
23 the department for information about licensing.

24

1           (g) Chemical and physical restraints may be used only  
2 after considering all other alternatives and only when  
3 required to treat a resident's medical symptoms or to  
4 maximize a resident's physical functioning. Restraints may  
5 not be used for discipline of a resident or for the  
6 convenience of the adult foster home owner or resident  
7 manager. Restraints may only be used as follows:

8

9           (i) Psychoactive medications may be used only  
10 pursuant to a prescription that specifies the circumstances,  
11 dosage and duration of use;

12

13           (ii) Physical restraints may be used only pursuant  
14 to a qualified health care provider's order that specifies  
15 the type, circumstances and duration of use. The department  
16 may adopt rules and regulations concerning the use of  
17 physical restraints.

18

19           (h) Providers shall not place residents who cannot walk  
20 without assistance in any area that does not have a ground  
21 level exit.

22

23           **42-6-110. Continuing education requirements.**

24

1           (a) The department shall require all providers and  
2 resident managers to complete annually twelve (12) hours of  
3 continuing education approved by the department, related  
4 to:

5

6                   (i) Care of the elderly and persons with  
7 disabilities; and

8

9                   (ii) Business operations of adult foster homes.

10

11           (b) Providers and resident managers may not fulfill  
12 the continuing education requirements described in  
13 subsection (a) of this section with more than four (4)  
14 hours of continuing education related to the business  
15 operations of adult foster homes.

16

17           (c) The department may by rule and regulation  
18 establish continuing education requirements for caregivers  
19 who are not providers.

20

21           **42-6-111. Entry and inspection of adult foster homes;**  
22 **access to residents; inspection report; fire inspection.**

23

1           (a) Department staff shall be permitted access to  
2 enter and inspect all licensed adult foster homes. The  
3 department shall be permitted access to enter and inspect  
4 any unlicensed adult foster home upon the receipt of an  
5 oral or written complaint, or in case the department itself  
6 has cause to believe that an adult foster home is operating  
7 without a license or there exists a threat to the health,  
8 safety or welfare of any resident. Department staff shall  
9 be permitted access to the residents of adult foster homes  
10 in order to interview residents privately and to inspect  
11 residents' records.

12

13           (b) State or local fire inspectors, or both, shall be  
14 permitted access to enter and inspect adult foster homes  
15 regarding fire safety upon request of the department.

16

17           (c) The department shall provide to each licensed  
18 adult foster home in the state in writing in clear, concise  
19 language readily comprehensible by the average person a  
20 copy of the inspection report of the most recent inspection  
21 of that home conducted by the department.

22

23           (d) Every licensed adult foster home provider shall  
24 post its most recent inspection report in the entry or

1 equally prominent place and shall, upon request, provide a  
2 copy of the information to each resident of, or person  
3 applying for admission to, the home, or to the legal  
4 representative, guardian or conservator of the resident or  
5 applicant.

6

7 **42-6-112. Rights of residents.**

8

9 (a) Residents of adult foster homes have the  
10 following rights. Providers shall guarantee this bill of  
11 rights and help residents exercise them. The provider  
12 shall post a copy of the residents' bill of rights in the  
13 entry or other equally prominent place in the adult foster  
14 home, stating that each resident of an adult foster home  
15 has the right to:

16

17 (i) Be treated as an adult, with respect and  
18 dignity;

19

20 (ii) Be informed of all resident rights and all  
21 house rules;

22

23 (iii) Be encouraged and assisted to exercise  
24 legal rights, including the right to vote;



1

2 (iv) Be informed of the resident's medical  
3 condition and the right to consent to or refuse treatment;

4

5 (v) Receive appropriate care and services, and  
6 prompt medical care as needed;

7

8 (vi) A safe and secure environment;

9

10 (vii) Be free from mental and physical abuse;

11

12 (viii) Be free from chemical or physical  
13 restraints except as ordered by a physician or other  
14 qualified practitioner;

15

16 (ix) Complete privacy when receiving treatment  
17 or personal care;

18

19 (x) Associate and communicate privately with any  
20 person the resident chooses;

21

22 (xi) Send and receive personal mail unopened;

23

1           (xii) Participate in activities of social,  
2 religious and community groups;

3

4           (xiii) Have medical and personal information  
5 kept confidential;

6

7           (xiv) Keep and use a reasonable amount of  
8 personal clothing and belongings, and to have a reasonable  
9 amount of private, secure storage space;

10

11           (xv) Manage the resident's own money and  
12 financial affairs unless legally restricted;

13

14           (xvi) Be free from financial exploitation. The  
15 provider shall not charge or ask for application fees or  
16 nonrefundable deposits and shall not solicit, accept or  
17 receive money or property from a resident other than the  
18 amount agreed to for services;

19

20           (xvii) A written agreement regarding the  
21 services to be provided and the rate schedule to be  
22 charged. The provider must give thirty (30) days written  
23 notice before any change in the rates or the ownership of  
24 the home;

1

2 (xviii) Not to be transferred or moved out of  
3 the adult foster home without thirty (30) days advance  
4 written notice and an opportunity for a hearing. A  
5 provider may transfer or discharge a resident only for  
6 medical reasons including a medical emergency, for the  
7 welfare of the resident or other residents or for  
8 nonpayment;

9

10 (xix) Be free of discrimination in regard to  
11 race, color, national origin, sex or religion;

12

13 (xx) Make suggestions and complaints without  
14 fear of retaliation.

15

16 **42-6-113. Complaint procedure, retaliation**  
17 **prohibited, notice of rates and rules; liability for**  
18 **complaints.**

19

20 (a) Complaints against adult foster homes may be  
21 filed with the department by any person, whether or not a  
22 resident of the home. The department shall investigate  
23 complaints regarding adult foster homes and shall adopt by

1 rule and regulation standards governing investigations  
2 pursuant to this section.

3

4 (b) The department shall prepare a notice which shall  
5 be posted in a conspicuous place in each adult foster home  
6 stating the telephone number of the department and the  
7 procedure for making complaints.

8

9 (c) The department shall maintain a file of all  
10 complaints and the action taken on the complaint, indexed  
11 by the name of the owner or operator. When the department  
12 concludes the investigation of a complaint, the department  
13 shall clearly designate the outcome of the complaint  
14 investigation in the complaint file. The filed complaint  
15 forms shall protect the privacy of the complainant, the  
16 resident and the witnesses.

17

18 (d) Any person has a right to inspect and photocopy  
19 the complaint files maintained by the department.

20

21 (e) The owner or operator of an adult foster home may  
22 not prohibit, discourage or use intimidation against any  
23 person to prevent the filing of a complaint with the  
24 department.

1

2 (f) If a resident or a person acting on the  
3 resident's behalf files a complaint with the department,  
4 the owner or operator of an adult foster home may not  
5 retaliate against the resident by:

6

7 (i) Increasing charges;

8

9 (ii) Decreasing services, rights or privileges;

10

11 (iii) Threatening to increase charges or  
12 decrease services, rights or privileges;

13

14 (iv) Taking or threatening to take any action to  
15 coerce or compel the resident to leave the facility; or

16

17 (v) Abusing or threatening to harass or abuse a  
18 resident in any manner.

19

20 (g) The owner or operator of an adult foster home may  
21 not retaliate against any person who files a complaint or  
22 any witness or employee of a facility interviewed about the  
23 complaint, including but not limited to retaliation by  
24 restriction of otherwise lawful access to the adult foster

1 home or to any resident thereof, or, if an employee, to  
2 dismissal, harassment or any other negative employment  
3 action.

4

5 (h) The provider shall give all residents, upon  
6 admission, a notice of the monthly rates and the house  
7 rules.

8

9 (j) Anyone participating in good faith in the filing  
10 of a complaint pursuant to this section is immune from any  
11 liability, civil or criminal, that might otherwise be  
12 incurred or imposed with respect to the filing or substance  
13 of the complaint. Any such participant shall have the same  
14 immunity with respect to participating in any judicial  
15 proceeding resulting from the complaint. A person does not  
16 act in good faith for the purposes of this subsection if  
17 the substance of the complaint is false and:

18

19 (i) The person knows that the substance of the  
20 complaint is false; or

21

22 (ii) The person makes the complaint with the  
23 intent to harm the owner or operator of the adult foster  
24 home, or the adult foster home, and the person shows a

1 reckless disregard for the truth or falsity of the  
2 substance of the complaint.

3

4 **42-6-114. Investigation of complaints against adult**  
5 **foster homes.**

6

7 (a) When the department receives a complaint against  
8 an adult foster home concerning the treatment of a  
9 resident, risks to a resident or financial or other  
10 malfeasance toward a resident, the department shall  
11 investigate the complaint. Allegations of injury, abuse,  
12 neglect or imminent danger to the resident's health or  
13 safety shall have first priority.

14

15 (b) The department shall by rule and regulation set  
16 standards for the procedure, content and time limits for  
17 the initiation and completion of investigations of  
18 complaints. The investigation shall not last longer than  
19 sixty (60) days from the receipt of the complaint except  
20 for good cause which shall be documented in the file  
21 concerning the complaint.

22

23 (c) As a result of the investigation of a complaint,  
24 the department may request the adult foster home to take

1 specific remedial actions, may after notice and opportunity  
2 for hearing order it to do so and may initiate proceedings  
3 as specified in W.S. 42-6-107(b).

4

5 (d) The department shall mail a copy of the  
6 investigation report within seven (7) days of the  
7 completion of the report and a notice that informs any  
8 recipient of the report of the right to submit additional  
9 evidence to:

10

11 (i) The complainant;

12

13 (ii) The resident and any person designated by  
14 the resident to receive information concerning the  
15 resident;

16

17 (iii) The facility; and

18

19 (iv) The long term care ombudsman.

20

21 (e) The complaint and the investigation report and  
22 any additional record of the final disposition of the  
23 matter shall be public documents.

24



1           **42-6-115. Home and community based waiver program**  
2 **expanded; requirements.**

3

4           (a) The department is authorized to seek from the  
5 federal government expansion of the number of slots in the  
6 home and community based waiver program from one thousand  
7 one hundred fifty (1,150) to one thousand four hundred  
8 fifty (1,450). Additional expansions may be authorized  
9 from time to time through the biennial budget.

10

11           (b) The department is authorized to increase the  
12 provider reimbursement levels by three dollars (\$3.00) per  
13 hour above that prevailing as of December 1, 2006. The  
14 department shall report to the joint labor, health and  
15 social services interim committee by November 1, 2007 the  
16 extent to which reimbursement improvements and any other  
17 changes made have improved the availability of home health  
18 care services and any additional remedies that may be  
19 needed. The length of the report shall not exceed one  
20 thousand (1,000) words plus any appropriate charts and  
21 graphs. Additional reports may be made from time to time  
22 as the need arises. In constructing standard budgets for  
23 biennial budgets the department and the department of  
24 administration and information shall include additional

1 increases in provider reimbursement as needed to compensate  
2 for inflation including increases in the cost of living in  
3 Wyoming and wage inflation in Wyoming. The budget  
4 documentation shall explicitly identify these provider  
5 reimbursement inflation adjustments and their total cost.

6

7 (c) The department shall arrange for home and  
8 community based waiver providers to furnish clients with  
9 electronic devices for monitoring medical conditions and  
10 summoning help in case of need. The devices furnished  
11 shall be tailored to the specific needs of individual  
12 clients and the department may set appropriate priorities  
13 based on the budget available and the needs of the clients.  
14 The department shall use Medicaid funds if possible, but  
15 may operate a state funds only program if federal cost  
16 sharing is not available or the federal regulations are  
17 unreasonably restrictive.

18

19 (d) The department shall set goals for expanding the  
20 number of Medicaid home and community based clients in self  
21 directed budget options and shall report progress toward  
22 those goals to the joint labor, health and social services  
23 interim committee no later than November 1, 2007, November  
24 1, 2008 and November 1, 2009. The department shall allow

1 these options to be managed by persons designated to do so  
2 in advanced health care directives. The department shall  
3 cause the long term care ombudsman and public health nurses  
4 to periodically visit clients with self directed plans to  
5 ensure they are being adequately cared for. Priority shall  
6 be given to any clients where relatives are providing care  
7 for compensation.

8

9 **42-6-116. Assisted living expansion; reimbursement**  
10 **increase.**

11

12 (a) The department shall seek federal approval to  
13 increase the number of allowed slots in the assisted living  
14 Medicaid waiver from one hundred forty-six (146) to one  
15 hundred seventy-seven (177) slots. The department shall  
16 increase the reimbursement for assisted living by [figure to  
17 be supplied by WDoH].

18

19 **42-6-117. Adult day care.**

20

21 The department shall investigate why so many adult day care  
22 providers in Wyoming have gone out of business in the past  
23 four (4) years and shall report its findings to the joint  
24 labor, health and social services interim committee and to

1 the advisory commission on long term care. The report shall  
2 not exceed two thousand (2,000) words in length plus  
3 appropriate charts and graphs. If the reasons include  
4 unreasonable state regulations, the department shall modify  
5 those regulations appropriately.

6

7 **42-6-118. Promotion of hospice care.**

8

9 The department is authorized to conduct a public education  
10 and awareness campaign to increase the acceptance of and use  
11 of hospice and hospice like care for people with terminal  
12 illnesses.

13

14 **42-6-119. Nursing homes; phase in of private room**  
15 **standard; reimbursement formulas.**

16

17 (a) The department shall seek federal approval via a  
18 state plan amendment or a waiver request to implement an  
19 incentive for nursing homes to move to private rooms for long  
20 term nursing home Medicaid clients. To the extent permitted  
21 by the federal government, the change from semi-private to  
22 private rooms shall be voluntary on the part of the nursing  
23 home and the client. The plan or waiver shall provide that,  
24 where a spouse is involved, the spouse shall retain the right

1 by mutual consent to share a semi-private room. The plan or  
2 waiver shall seek federal permission to allow a person who is  
3 not Medicaid eligible to share by mutual consent an otherwise  
4 private room with a spouse on a private pay basis. If the  
5 federal government requires all Medicaid clients to go to a  
6 private room basis, the department shall negotiate a  
7 reasonable phase in period. If the federal government  
8 refuses to approve the plan amendment or waiver sought or  
9 refuses to negotiate in good faith, the governor shall notify  
10 the legislature and the members of the Wyoming congressional  
11 delegation.

12

13 (b) The department shall, in consultation with the  
14 nursing home industry, negotiate a Medicaid nursing home  
15 reimbursement formula for private rooms which shall provide:

16

17 (i) Recovery of the variable costs of serving a  
18 client;

19

20 (ii) Recovery of the fixed costs of serving a  
21 client at twice the level provided for a semi-private room;  
22 and

23

1           (iii) An incentive for private rooms which on a  
2 per client basis shall be approximately ten percent (10%) of  
3 the variable cost of serving a client.

4  
5           (c) The department is authorized to expend funds from  
6 the Medicaid administrative budget to assist in developing  
7 the formula and to identify the fixed and variable costs of  
8 serving Medicaid clients.

9  
10          (d) The formula shall provide that semi-private rooms  
11 temporarily with only one (1) occupant shall continue to be  
12 billed as semi-private rooms and shall provide a means for  
13 distinguishing between rooms converted to private status and  
14 rooms remaining semi-private.

15  
16          (e) Nursing homes shall retain the right to convert  
17 private rooms back to semi-private. Nursing homes may not  
18 waive this right. The Medicaid semi-private room capacity  
19 shall continue to be used for calculating capacity for the  
20 purposes of W.S. 35-2-906.

21  
22          (f) Semi-private rooms shall continue to be the  
23 standard for short stays for rehabilitation and respite care  
24 purposes.

1

2 (g) The department shall not implement the expansion of  
3 the assisted living program authorized by this section,  
4 expend Medicaid funds for greenhouse concept nursing homes,  
5 or expend Medicaid funds for adult foster care until the  
6 federal government has approved the waivers or state plan  
7 amendments necessary to implement this section.

8

9 **42-6-120. Advisory commission on long term care.**

10

11 The governor is authorized to appoint an advisory commission  
12 on long term care to advise the department and other state  
13 agencies as appropriate on issues relating to the long term  
14 care system in the state.

15

16 **Section 2.** W.S. 9-2-1208(a) and (b)(i) through (v),  
17 35-2-901(a)(x), by creating a new paragraph (xxiv) and by  
18 renumbering (xxiv) as (xxv), 35-2-906 by creating new  
19 subsections (f) and (g), 42-4-101, 42-4-103(a) by creating  
20 new paragraphs (xxxii) and (xxxiii) are amended to read:

21

22 **9-2-1208. Community based in-home services.**

23

1 (a) The department of health shall administer a state  
2 program to provide community based in-home services for  
3 senior citizens. Priority shall be given to persons at  
4 risk of placement in nursing homes, assisted living or  
5 other institutional care settings and the program may serve  
6 persons who are not senior citizens if the program's  
7 services are needed as determined by consultation and  
8 assessment pursuant to the Wyoming Long Term Care Choices  
9 Act to avoid institutional placement.

10  
11 (b) The program authorized by this section may  
12 include but is not limited to the following in-home  
13 services:

14  
15 (i) Homemaking services, including services for  
16 Medicaid home and community based waiver clients that are  
17 needed to avoid more restrictive placement but are not  
18 furnished by Medicaid due to federal restrictions;

19  
20 (ii) Home health aid services, including  
21 services for Medicaid home and community based waiver  
22 clients that are needed to avoid more restrictive placement  
23 but are not furnished by Medicaid due to federal  
24 restrictions;



1

2 (iii) Respite care to relieve care givers,  
3 including stays in nursing homes which shall not exceed  
4 thirty (30) days in any calendar year, which shall be paid  
5 for at the Medicaid semi-private room rate and which may be  
6 further limited in length by the department for cost  
7 effectiveness and budgetary reasons;

8

9 (iv) Hospice care for individuals who are not  
10 able to pay for the care due to lack of income or assets  
11 and are not able to qualify for hospice services under the  
12 Medicaid program; and

13

14 (v) Adult day care, which may include adult day  
15 care for Medicaid clients in need of adult day care to  
16 avoid more restrictive placement and who cannot obtain the  
17 care through the Medicaid program.

18

19 **35-2-901. Definitions; applicability of provisions.**

20

21 (a) As used in this act:

22

23 (x) "Health care facility" means any ambulatory  
24 surgical center, assisted living facility, adult day care

1 facility, adult foster care home, birthing center, boarding  
2 home, freestanding diagnostic testing center, home health  
3 agency, hospice, hospital, intermediate care facility for  
4 the mentally retarded, medical assistance facility, nursing  
5 care facility, rehabilitation facility and renal dialysis  
6 center;

7  
8 (xxiv) "Adult foster care home" means a home  
9 where care is provided for up to five (5) people, except in  
10 special circumstances, in need of long term care in a home  
11 like atmosphere. Clients in the home shall have private  
12 rooms which may be shared with spouses and shall have  
13 individual handicapped accessible bathrooms. The homes  
14 shall be regulated in accordance with this act and with the  
15 Wyoming Long Term Care Choices Act, which shall govern in  
16 case of conflict with this act.

17  
18 ~~(xxiv)~~(xxv) "This act" means W.S. 35-2-901  
19 through 35-2-912.

20  
21 **35-2-906. Construction and expansion of facilities;**  
22 **exemption.**

23

1       (f) Beds in adult foster care homes and beds in  
2 greenhouse concept nursing care facilities constructed  
3 pursuant to the pilot program authorized in W.S. 42-6-105  
4 shall not be considered as nursing care facility beds for  
5 the purposes of this section.

6  
7       (g) Medicaid private room beds in nursing care  
8 facilities shall be counted as having the capacity of semi-  
9 private rooms as long as the nursing care facilities retain  
10 the practical ability to reconvert these rooms to semi-  
11 private status.

12  
13       **42-4-101. Short title.**

14  
15       This chapter may be cited as the "Wyoming Medical  
16 Assistance and Services Act". The program and services  
17 provided pursuant to this chapter and Title XIX of the  
18 federal Social Security Act may be cited as "Medicaid" or  
19 the "Medicaid program".

20  
21       **42-4-103. Authorized services and supplies.**

22  
23       (a) Services and supplies authorized for medical  
24 assistance under this chapter include:

1

2

3

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**Section 3.**

13

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23

(xxxi) Adult foster care services, except that this authorization shall not be effective until the conditions in W.S. 42-6-117 have been met;

(xxxii) Adult day care services for persons at risk of placement in skilled nursing facilities or assisted living under this section, except that this authorization shall not be effective until the conditions in W.S. 42-6-117 have been met.

(a) For the consultative services program authorized by this act, there is appropriated to the department of health four hundred seventy thousand nine hundred dollars (\$470,900.00) from the general fund and five hundred twenty nine thousand one hundred dollars (\$529,100.00) in federal funds for the fiscal biennium ending June 30, 2008.

(b) For transition services for persons leaving nursing homes or avoiding more restrictive placements, there is appropriated three hundred thousand dollars (\$300,000.00)

1 from the general fund to the department of health for the  
2 fiscal biennium ending June 30, 2008.

3

4 (c) For expansion of the home and community based  
5 waiver program, there is appropriated to the department of  
6 health one million fifty-four thousand three hundred seventy-  
7 seven dollars (\$1,054,377.00) from the general fund and one  
8 million one hundred eighty-four thousand six hundred ninety-  
9 one dollars (\$1,184,691.00) in federal funds for the fiscal  
10 biennium ending June 30, 2008.

11

12 (d) For electronic devices authorized for distribution  
13 through the home and community based waiver program, there is  
14 appropriated to the department of health ninety-four thousand  
15 one hundred eighty dollars (\$94,180.00) from the general fund  
16 and one hundred five thousand eight hundred twenty dollars  
17 (\$105,820.00) in federal funds for the fiscal biennium ending  
18 June 30, 2008.

19

20 (e) For improvement of the reimbursement of home and  
21 community based providers, there is appropriated to the  
22 department of health one million three hundred seventy-two  
23 thousand sixty-nine dollars (\$1,372,069.00) from the general  
24 fund and one million five hundred forty-one thousand six

1 hundred forty-seven dollars (\$1,541,647.00) in federal funds  
2 for the fiscal biennium ending June 30, 2008.

3

4 (f) For public education and awareness concerning  
5 hospice care, there is appropriated to the department of  
6 health fifty thousand dollars (\$50,000.00) from the general  
7 fund for the fiscal biennium ending June 30, 2008.

8

9 (g) For expansion of the assisted living waiver slots,  
10 two hundred nineteen thousand seven hundred eighty-six  
11 dollars (\$219,786.00) is appropriated to the department of  
12 health from the general fund and two hundred forty-six  
13 thousand nine hundred fifty dollars (\$246,950.00) in federal  
14 funds for the fiscal biennium ending June 30, 2008.

15

16 (h) For the expansion of the community based in-home  
17 program, two million dollars (\$2,000,000.00) is appropriated  
18 to the department of health from the general fund for the  
19 fiscal biennium ending June 30, 2008.

20

1           **Section 4.**   This act is effective immediately upon  
2 completion of all acts necessary for a bill to become law  
3 as provided by Article 4, Section 8 of the Wyoming  
4 Constitution.

5

6

(END)