



Notice of Intent to Adopt Rules

A copy of the proposed rules may be obtained at <http://rules.wyo.gov>

Revised September 2016

1. General Information

a. Agency/Board Name		
b. Agency/Board Address	c. City	d. Zip Code
e. Name of Agency Liaison		f. Agency Liaison Telephone Number
g. Agency Liaison Email Address		
h. Date of Public Notice		i. Comment Period End Date
j. Public Comment URL or Email Address:		
k. Program		

2. Legislative Enactment For purposes of this Section 2, "new" only applies to regular rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.

a. Are these rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

No. Yes. Please provide the Enrolled Act Numbers and Years Enacted:

3. Rule Type and Information

a. Provide the Chapter Number, Title, and Proposed Action for Each Chapter.
Please use the Additional Rule Information form for more than 10 chapters, and attach it to this certification.

Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
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Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed

4. Public Comments and Hearing Information

a. A public hearing on the proposed rules has been scheduled. No. Yes. Please complete the boxes below.

Date:	Time:	City:	Location:
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b. What is the manner in which interested persons may present their views on the rulemaking action?

By submitting written comments to the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

A public hearing will be held if requested by 25 persons, a government subdivision, or by an association having not less than 25 members. Requests for a public hearing may be submitted:

To the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

c. Any person may urge the Agency not to adopt the rules and request the Agency to state its reasons for overruling the consideration urged against adoption. Requests for an agency response must be made prior to, or within thirty (30) days after adoption, of the rule, addressed to the Agency and Agency Liaison listed in Section 1 above.

5. Federal Law Requirements

a. These rules are created/amended/repealed to comply with federal law or regulatory requirements. No. Yes. Please complete the boxes below.

Applicable Federal Law or Regulation Citation:
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Indicate one (1):

The proposed rules meet, but do not exceed, minimum federal requirements.

The proposed rules exceed minimum federal requirements.

Any person wishing to object to the accuracy of any information provided by the Agency under this item should submit their objections prior to final adoption to:

To the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

6. State Statutory Requirements

a. Indicate one (1):

The proposed rule change *MEETS* minimum substantive statutory requirements.

The proposed rule change *EXCEEDS* minimum substantive statutory requirements. Please attach a statement explaining the reason that the rules exceed the requirements.

b. Indicate one (1):

The Agency has complied with the requirements of W.S. 9-5-304. A copy of the assessment used to evaluate the proposed rules may be obtained:

By contacting the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

Not Applicable.

7. Additional APA Provisions

a. Complete all that apply in regards to uniform rules:

These rules are not impacted by the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j).

The following chapters do not differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j):

_____ (Provide chapter numbers)

These chapters differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j) (see Statement of Principal Reasons).

_____ (Provide chapter numbers)

b. Checklist

The Statement of Principal Reasons is attached to this Notice and, in compliance with *Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council*, 590 P.2d 1324 (Wyo. 1979), includes a brief statement of the substance or terms of the rule and the basis and purpose of the rule.

If applicable: In consultation with the Attorney General's Office, the Agency's Attorney General representative concurs that strike and underscore is not required as the proposed amendments are pervasive (Chapter 3, *Types of Rules Filings*, Section 1, Proposed Rules, of the Rules on Rules).

8. Authorization

a. I certify that the foregoing information is correct.

<i>Printed Name of Authorized Individual</i>	
<i>Title of Authorized Individual</i>	
<i>Date of Authorization</i>	

Statement of Reasons

Individually Selected Service Coordination Chapters 1 - 2

The Wyoming Department of Health proposes to repeal the following Rules to comply with all provisions of Wyoming Statutes §§ 9-2-102, 42-4-104, 42-4-120; and the Wyoming Administrative Procedures Act found at §§ 16-3-101 through 16-3-115.

Chapters 1 through 2 of Individually Selected Service Coordination are being repealed because all waiver services are administered through the Medicaid program, and necessary language regarding case management services and emergency funding is now incorporated into the Wyoming Medicaid rules. For further information on these rules, please refer to the Statement of Changes and Reasons for Chapters 41 – 46 of the Medicaid Rules.

Consistent with the Governor's directive to reduce rules, the Department of Health removed unnecessary redundancy between these chapters, other existing Medicaid rules, and Wyoming statutes. The Department of Health also eliminated provisions where lawmaking is not necessary in favor of providing better regulatory guidance.

CHAPTER 1

INDIVIDUALLY SELECTED SERVICE COORDINATION

[This chapter is repealed.]

RULES AND REGULATIONS
DEPARTMENT OF HEALTH
DIVISION OF DEVELOPMENTAL DISABILITIES
CHAPTER 1
Rules For Individually-selected Service Coordination
[This chapter is repealed]

~~—Section 1.—Authority.~~ The Department of Health, through its Division of Developmental Disabilities, pursuant to W.S. 9-2-102, W.S. 35-1-620, and the Settlement Agreement in Civil Action C90-0004 is authorized to establish minimum standards for programs and personnel providing services to persons with developmental disabilities.

~~—Section 2.—Definitions.~~

~~—(a)—"Division"~~ means the Division of Developmental Disabilities of the Wyoming Department of Health (DD).

~~—(b)—"Eligible person"~~ means a person with mental retardation, a developmental disability, or a related condition, for whom individually selected service coordination is applicable as described in 4(a) below, and who meets the following eligibility criteria:

~~—(i)—Developmental Disability—~~The person has a confirmed diagnosis of Mental Retardation, or a related condition as defined in 42 CFR 435.1009.

~~—(ii)—Mental Retardation~~ means significantly subaverage general intellectual functioning as evidenced by an IQ score of 70 or below on a standardized measure of intelligence; and existing concurrently with deficits in adaptive behavior; and manifested during the developmental period (prior to age 22).

~~—(iii)—Persons with related conditions~~ include individuals with a severe, chronic disability attributable to autism, cerebral palsy, a seizure disorder or any other condition other than mental illness that is found to be closely related to mental retardation because this condition results in impairments of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation and requires treatment or services similar to those required for these persons. Further elements of a related condition include:

~~1.—~~ It is manifested before the person reaches age 22; and

~~2.—~~ It is likely to continue indefinitely; and

~~3.—~~ The person has substantial functional limitations in three or more of the following areas of major life functions: Self-care Understanding and use of language Learning Mobility Self-direction Capacity for independent living

~~—(c) "Individually selected service coordination" means a service which helps an eligible person with a developmental disability to identify, select, obtain, coordinate and use both paid services and natural supports which enhance independence, productivity, and integration consistent with his or her capacity and preferences. Individually selected service coordination supports, but does not substitute for, the responsibility of providers of other services to assure adequate internal service coordination, including internal provider case management, as necessary to effectively deliver the services offered by that provider.~~

~~(d) "Individually selected Service Coordinator (ISC)" means a person certified by the Division of Developmental Disabilities as qualified and able to provide individually selected service coordination.~~

~~—(e) "Informed choice" means a decision based upon sufficient information, experience, or knowledge of the alternatives and consequences of the options available.~~

~~—(f) "Integration" means active participation and inclusion in the mainstream of community life.~~

~~—(g) "Interdisciplinary" means a cooperative approach to the assessment of needs, development of, and implementation of services by persons from a variety of educational and professional disciplines.~~

~~—(h) "Program evaluation" means a systematic procedure for determining the effectiveness and efficiency of the results achieved by the person served following the implementation of a planned program of intervention.~~

~~—(i) "Program evaluation report" means a written analysis of the program evaluation.~~

~~—(j) "Service referrals" means the practice of arranging for a person to receive the services provided by a service organization or provider, including referrals as appropriate to other providers.~~

~~—(k) "Support" means activities, training, materials, equipment, assistive technology, or services designed and implemented with the active participation of the person served to assist him or her to function as independently as his or her capacities and preferences allow.~~

~~—(l) "Team" means the group of persons who develop a plan for the provision of supports and services and assist in its implementation. The team shall include the person served, guardian (if applicable), the Individually selected Service Coordinator (ISC), and representatives of persons or organizations providing direct supports or services. The team may include family members, peers, employers, and other persons as requested by the person served or his or her guardian.~~

~~—Section 3. Administration.~~

~~—(a) Individually selected Service Coordination shall be provided as a service administered by the Wyoming Department of Health through its Division of Developmental Disabilities. The~~

~~system shall be designed to promote individual choice and effective delivery and coordination of needed services.~~

~~— (b) The Division shall be responsible for recruitment and certification of a roster of Individually selected Service Coordinators who meet the eligibility and certification requirements, and for establishing the training and certification requirements of ISC personnel.~~

~~— (c) The Division shall be responsible for monitoring ISC services to assure compliance with standards and quality of service outcomes.~~

~~— (d) The Division shall establish reimbursement and payment methods, subject to available appropriation, to adequately support the provision of ISC services in a cost-effective manner.~~

~~— (e) The ISC system will support, but not substitute for the responsibility of providers of other services to assure adequate internal service coordination, including internal provider case management, necessary to effectively deliver the services offered by that provider.~~

~~— (f) The Division shall develop and implement such procedures, requirements and standards as are necessary to accomplish the purposes of these rules.~~

~~— Section 4. — Applicability.~~

~~— (a) Individually selected Service Coordination, as identified herein, applies to all individuals with a developmental disability (ies) who are approved to receive services funded through the Wyoming Medicaid DD Home and Community Based (HCB) Waivers (adult and child) or through regional contracts with adult service providers.~~

~~— (b) Children served through the DD preschool programs (birth to 5 years of age) receive service coordination in accordance with the provisions and requirements of those programs.~~

~~— (c) Individuals residing at the Wyoming State Training School receive service coordination through the identified Qualified Mental Retardation Professional (QMRP) in accordance with ratios specified in the Settlement Agreement, and in accordance with federal ICF/MR regulations, subject to the following:~~

~~— (i) Monitoring is provided by Wyoming Protection and Advocacy, Inc. (P&A) in accordance with the Settlement Agreement in Civil Action C90-0004.~~

~~— (ii) A community-based ISC shall be identified and made part of the team for persons served who are referred for placement and are engaged in the transition process. An appropriate Area Resource Specialist employed by the Division will be assigned to fulfill this function for persons in transition until such time as the development of a specific placement plan makes identification of an ISC feasible.~~

~~— Section 5. — Individually selected Service Coordinator Qualifications and Caseload.~~

~~— (a) Each ISC is required to meet current qualifications identified in federal standards for Qualified Mental Retardation Professional (QMRP), or,~~

~~— (i) Meet qualifications identified in Medicaid DD HCB Waivers, including an appropriate Associate Degree or equivalent and two years of experience in the field of developmental disabilities, and be under the direct supervision and oversight of a person who meets the qualifications for QMRP.~~

~~— (b) For purposes of reimbursement, the ISC may not be the parent, spouse or sibling of the person served.~~

~~— (c) Each ISC must have a working knowledge of community resources, an ability to communicate with and work effectively with the person served, an ability to elicit and respect the values and preferences of the person served, an ability to work cooperatively and effectively with other team members, and understand the disabilities of persons served and methods for overcoming barriers to productivity and integration.~~

~~— (d) Caseload ratios shall be established so as to allow the ISC to effectively coordinate services. Allowable ratios shall be based upon geographic location, complexity of needs, intensity of support required, cost effectiveness, and provider experience, and shall be determined by the Division.~~

~~— Section 6. Provider Requirements.~~

~~Each self-employed ISC or organization providing ISC services shall:~~

~~— (a) Have policies and procedures that identify~~

~~— (i) Who is served,~~

~~— (ii) Criteria for the order of acceptance,~~

~~— (iii) The person(s) responsible for making the decision to accept a person for ISC services,~~

~~— (iv) The criteria by which acceptance decisions are made,~~

~~— (v) A means for appealing the denial of ISC services, and~~

~~— (vi) How referrals will be made by the ISC to other providers of services as appropriate, which may include another ISC provider or the Division;~~

~~— (b) Provide opportunities for persons served to learn about the ISC provider, its mission, programs, and services;~~

~~— (c) Provide written notification, including reasons for denial, to any person denied ISC services;~~

~~— (d) Evaluate the quality of its ISC services in keeping with applicable standards;~~

~~— (e) Meet CARF (Commission on Accreditation of Rehabilitation Facilities) Standards and/or other requirements as identified by the Division.~~

~~— **Section 7. Roster of Individually-selected Service Coordinators.**~~

~~— (a) Persons served may only select an ISC from the roster of ISC providers maintained by the Division. Individuals may apply to the Division to be included on the ISC roster by written application to the Division including supporting documents to demonstrate educational and professional experience and compliance with all requirements.~~

~~— (b) Within 30 days of the receipt of the completed application, the Division will determine if the applicant meets the requirements and will provide a written statement to the applicant. If the applicant is not qualified, the Division will include in its response the specific reasons for the denial. If the Division determines that the applicant is qualified, a certificate will be issued attesting to the eligibility of this applicant to provide ISC services. This certificate must be made available upon request to any person inquiring about services.~~

~~— (c) The Division will maintain a roster of certified ISC personnel organized by individual, ISC organization and the city in which the ISC will provide services.~~

~~— (d) The Division will update the roster monthly.~~

~~— (e) The ISC roster is public information, which the Division will make available to anyone upon request.~~

~~— (f) An ISC provider may request the Division to have his or her name, or the name of an ISC employed by the organization, removed from the roster by written request directed to the Division.~~

~~— (g) The Division may remove the name of any ISC from the roster for unethical conduct after providing the ISC or ISC organization with written notice and the opportunity for a hearing conducted according to applicable Medicaid rules or the provisions of Division Contracts.~~

~~— (h) The Division will periodically review the ISC roster deleting the names of persons known to have left the state or no longer providing services after sending a certified letter to his/her last known address.~~

~~— (i) Removing an ISC's name from the roster terminates the individual from participation as a provider of ISC services. A terminated ISC may reapply for participation as specified in Section 7(a) and 7(b).~~

~~— **Section 8. Selection of Individually-selected Service Coordinators.**~~

~~— (a) If an eligible person does not have an ISC, he or she should contact the Division to request the name of the Area Resource Specialist assigned to his or her location for assistance in the selection of an ISC.~~

~~— (b) Until the person served has the opportunity to select an ISC, the appropriate Area Resource Specialist will serve in the capacity of ISC.~~

~~— (c) Wyoming Protection & Advocacy, Inc. (P&A) will be notified by the Division of each request for the selection or change of an ISC. P&A may participate in providing information to the person served regarding ISC choices available to him or her so as to help assure informed choice.~~

~~— (d) The person served or his or her guardian must select an ISC from the roster maintained by the Division, subject to Division approval of caseload limits as described in section 5(d).~~

~~— **Section 9. Change of ISC.**~~

~~— (a) The person served or his or her guardian may request a change of ISC concurrent with the 6 month plan review or the annual update of the plan of care. The Division Area Resource Specialist should be notified of an intent to make such a change. Changes may be authorized by the Division at other times if there is evidence of unethical conduct, non-performance of duties, resignation of the ISC, significant conflict between the ISC and the person served, or other unusual circumstances. In such instances the Area Resource Specialist should be contacted for assistance. If the person served or his or her guardian disagrees with the decision of the Division, an appeal may be made utilizing the Medicaid DD HCB Waiver appeal procedures or the Division Contested Case procedure.~~

~~— **Section 10. Responsibilities of Individually-selected Service Coordinators.**~~

~~— It is the responsibility of the ISC to:~~

~~— (a) Gain an understanding of the needs, desires and preferences of the person served,~~

~~— (b) Arrange, coordinate and be financially responsible for assessment, subject to applicable reimbursement guidelines,~~

~~— (c) Coordinate the team in the development of the plan of care,~~

~~— (d) Provide support and encouragement to the person served in the development of the plan of care,~~

~~— (e) Advocate for the preferences and choices of the person served, unless such preferences and choices are clearly not in the person served's best interest,~~

~~— (f) Review and monitor overall service delivery in accordance with the plan of care,~~

~~— (g) Coordinate assistance in crisis intervention,~~

~~— (h) Assist in coordinating Transition Plans,~~

~~— (i) Assist the person served to achieve his or her highest level of independence and social integration within his or her capabilities and preferences,~~

~~— (j) Be available to the person served at times and locations most convenient to that person, including regular visits to the person served at home, work, day program, learning site, and recreational sites,~~

~~— (k) Assure that a qualified provider of ISC services is available to the person served when the ISC is unavailable for an extended period of time, such as vacations or extended illnesses. This may be accomplished by referral to another ISC, with permission of the person served or his or her guardian.~~

~~— (l) Prepare an exit summary for each person leaving ISC services,~~

~~— (m) Perform other duties as required by the Division related to provision of ISC services, and~~

~~— (n) Maintain a master record in accordance with Division requirements, and assure that information is disseminated to appropriate parties.~~

~~— **Section 11. Assessment.**~~

~~— (a) Prior to the development of a plan of care, the ISC shall arrange and coordinate the collection and collation of in-depth information about a person's situation and functioning. The assessment shall identify the person's strengths, current availability and potential capacity of natural supports, and need for service and financial resources if appropriate. The assessment shall include, as appropriate for the person served:~~

~~— (i) Interests, preferences, desires, expectations, and strengths;~~

~~— (ii) Health status, including medications, chronic and current conditions and treatments;~~

~~— (iii) Functional performance, including activities of daily living, level of assistance needed, and assistive devices used or needed;~~

~~— (iv) Behavior and emotional factors, including history, coping mechanisms, and stressors;~~

~~— (v) Cognitive functioning, including memory, attention, judgment, and general cognitive measures;~~

~~_____ (vi) Environmental factors, including architectural or transportation barriers,~~

~~_____ (vii) Social supports and networks, including natural supports such as families and friends, religious organizations or other organizations;~~

~~_____ (viii) Financial factors such as insurance, assets, or income, guardianship or conservatorships, or entitlements that influence the array of supports and services that are needed.~~

~~_____ (b) The assessments may be based upon standardized instruments administered by persons other than team members provided one of more or the team members can explain the uses and limits of the instrument to other team members.~~

~~_____ (c) If the ISC organization develops instruments, such instruments shall be used consistently.~~

~~_____ (d) The ISC is financially responsible for assessment, in accordance with Medicaid reimbursement guidelines.~~

~~_____ **Section 12. ISC Responsibilities and the Plan of Care.**~~

~~_____ (a) Each person served receiving ISC services shall have a written plan of care based upon the findings of the comprehensive assessment and input from the team. The development and implementation of this plan will be coordinated and monitored by the ISC, with assistance as necessary from internal provider service coordinators/case managers and other team members.~~

~~_____ (b) The duration of the plan will not exceed twelve (12) months. The team may alter the plan at any time as circumstances, needs, and preferences of the person served dictate.~~

~~_____ (c) The plan shall encourage the highest level of independence and participation of the person served in keeping with the person's preferences.~~

~~_____ (d) The plan shall:~~

~~_____ (i) Address the strengths and needs identified in the assessment,~~

~~_____ (ii) Identify the goals and objectives to be achieved,~~

~~_____ (iii) Specify the timing, type and amount of supports and services that will be mobilized to meet the objectives,~~

~~_____ (iv) Include the sources of funding for the supports and services,~~

~~_____ (v) Delineate the responsibilities of the ISC and other team members, and~~

~~_____ (vi) Include a schedule for periodic reviews of the relevance of the plan.~~

~~—(e) The plan will be discussed with the team members in a manner that enables them to understand it and their respective roles in its implementation.~~

~~—(f) If the person served is funded through a Medicaid DD Home and Community Based Waiver, the plan must meet applicable waiver standards, but may include additional items that reflect the person's need for supports. It is the responsibility of the ISC, working in coordination with service providers, to assure that plans are properly completed and submitted in a timely manner so as to prevent interruption of service or service reimbursement.~~

~~—(g) Appeal of a decision of the team shall be made by utilizing appeal processes identified in the Medicaid DD HCB waiver, the Division Contested Case Procedure, or provider agreements, as applicable. It is the responsibility of the ISC to assure that the person served, and guardian if applicable, are made aware of these processes.~~

~~—Section 13. ISC Responsibilities in Implementation and Monitoring of the Plan.~~

~~—(a) Implementation of the plan shall take into account the person served's preferences and cultural beliefs.~~

~~—(b) As much as possible, the plan shall be implemented according to the timetables in the plan. If lengthy delays occur in the implementation of the plan, the ISC will work with the person served and the team to determine if a change in plan is needed or whether the Division should be notified for assistance in achieving compliance.~~

~~—(c) The ISC shall monitor the implementation of the plan and notify the Division if problems are encountered.~~

~~—(d) Monitoring shall include a review of the timing, sequence, duration, efficiency and effectiveness of services and the person served's satisfaction with the supports and services provided.~~

~~(e) Results will be documented in the master record and provided to the Division.~~

~~—Section 14. Review of ISC Providers.~~

~~—Staff of the Division will conduct annual on-site visits of all ISC providers to monitor compliance with the Division rules applicable to the persons served by the individual or organization. If the ISC provider serves persons covered by different DD Division standards, the more stringent standards will apply. ISC providers accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF) in the area of case management will be deemed to have met Division standards necessary for certification.~~

~~—Section 15. Program Evaluation.~~

~~—Each ISC provider or organization shall prepare an annual report on Individually selected Service Coordination, to include an evaluation of its program. The provider may conduct the~~

~~program evaluation or may contract to have the program evaluation conducted and report developed.~~

~~— (a) The program evaluation may address a variety of issues, but must include measures of at least two of the following indicators of how persons served have benefitted during the report year:~~

~~———— (i) Social integration,~~

~~———— (ii) Independence of vocational or day placement,~~

~~———— (iii) Independence of residential placement.~~

~~— (b) The program evaluation report shall also include:~~

~~———— (i) Measures of satisfaction of the person served, and~~

~~———— (ii) Demographic information on the persons served, including age, primary and secondary diagnoses, and level of functioning.~~

~~— (c) The program evaluation report may be based upon a random sample of the persons served, but in no case less than ten percent of those persons served or 10 people, whichever is greater.~~

~~— **Section 16. Unethical Conduct.**~~

~~— (a) Persons who provide services to vulnerable populations incur special responsibilities.~~

~~— The more dependent the population, the greater the responsibility. ISC's are expected to support the choices and preferences of the person served unless doing so is either illegal or clearly not in the best interests of the person served. Unethical conduct includes but is not limited to the following:~~

~~———— (i) Flagrant violations of the person served's preferences without justification,~~

~~———— (ii) Abandonment of services,~~

~~———— (iii) Sexual contact with the person served, whether such contact is consensual or not,~~

~~———— (iv) Misappropriation of property or funds,~~

~~———— (v) Violations of confidentiality,~~

~~———— (vi) Verbal or physical abuse,~~

~~———— (vii) Failure to carry out ISC responsibilities identified in the plan of care,~~

~~———— (viii) — Failing to properly account for and document services provided, and/or billing for undocumented services;~~

~~———— (ix) — Offering premiums, gifts, cash or other inducements as a means of influencing ISC selection. Advertising, without promises of inappropriate inducements is not itself unethical.~~

~~———— (b) — Any person believing that unethical conduct has occurred, should report the alleged misconduct immediately to the Division and, as appropriate, to the DD Client Rights Specialist. The Division Administrator will assign appropriate personnel to investigate. During the period of the investigation, the Area Resource Specialist or another ISC may be assigned by the Division to perform the functions of ISC.~~

~~———— (c) — An ISC organization or individual ISC provider found by the Division to have engaged in unethical conduct will be required to take corrective action and/or be terminated as an eligible certified provider of ISC services.~~

~~———— (d) — The Administrator of the Division shall determine the remedy, including the length of the termination. The remedy shall be based on the seriousness of the unethical conduct.~~

~~———— (e) — ISC providers found to have engaged in unethical conduct and subject to Division action may utilize appeal processes under the Medicaid DD HCB waivers or provider contract.~~

~~———— **Section 17. System Implementation.**~~

~~———— In order to assure effective and orderly implementation of the system identified in these rules, the following provisions will apply:~~

~~———— (a) — All individuals or organizations authorized by the Division to provide case management services under the provisions of the Child or Adult Medicaid DD HCB Waiver or a Regional Provider Contract as of June 30, 1995 will be added to the Division roster of ISC providers effective July 1, 1995, and will be deemed to meet the eligibility requirements of an ISC through June 30, 1996 as long as they continue to meet applicable certification standards for those programs during that period.~~

~~———— (i) — Any individuals or organization(s) desiring to be maintained on the ISC roster after June 30, 1996 must meet all qualifications, make application, and be certified by the Division in accordance with Section 7(a) (b) prior to that date.~~

~~———— (ii) — Individuals who have served in either a staff or contract capacity as an Independent Case Manager during the tenure of that system, and who apply, qualify, and are certified as HCB Waiver providers prior to June 30, 1995, will be included under the provisions of section 17(a) and 17(a)(i) above.~~

~~———— (b) — All eligible persons receiving case management services from an individual or organization identified in 17(a) as of June 30, 1995 will receive ISC services from the same individual or organization after July 1, 1995, subject to the following:~~

~~—————(i) Beginning with plans of care effective September 1, 1995, an ISC selection shall be made at the time of the first biannual or annual plan of care review after that date. Subsequent ISC selections shall be made in accordance with the provisions of Section 9.~~

~~—————(ii) In the case of persons served who have been receiving both HCB Waiver/regional provider case management services and Independent Case Management, the person served or their guardian may elect to have either the current waiver/pro~~

CHAPTER 2
FUNDING EMERGENCY SERVICES

[This chapter is repealed.]

DEVELOPMENTAL DISABILITIES DIVISION
CHAPTER 2
RULES AND REGULATIONS FOR FUNDING EMERGENCY
SERVICES

[This chapter is repealed]

— **Section 1. Authority.**

— This Chapter is promulgated by the Department of Health pursuant to the Wyoming Medical Assistance and Services Act at W.S. § 42-4-101, et seq. and the Wyoming Administrative Procedures Act at W. S. § 16-3-101, et seq.

— **Section 2. Purpose and Applicability.**

— (a) This Chapter shall apply to and govern state funded services authorized by W.S. § 42-4-120 provided to persons 18 years of age or older who are determined to be an emergency referral and who may be eligible for the Adult Developmental Disabilities Waiver, the Children's Developmental Disabilities Home and Community Based Waiver, the Acquired Brain Injury Home and Community Based Waiver, or any other Home and Community Based Waiver administered by the Division, until eligibility is determined.

— (b) The Division may issue provider manuals, provider bulletins, or both, to providers and/or other affected parties to interpret the provisions of this Chapter. Such provider manuals and provider bulletins shall be consistent with and reflect the rules and procedures contained in this Chapter. The provisions contained in provider manuals or provider bulletins shall be subordinate to the provisions of this Chapter.

— **Section 3. General Provisions.**

— (a) Terminology. Except as otherwise specified, the terminology used in this Chapter is the standard terminology and has the standard meaning used in accounting, healthcare, Medicaid and Medicare.

— (b) Unless otherwise specified, the incorporation by reference of any external standard is intended to be the incorporation of that standard as it is in effect on the effective date of this Chapter, including any applicable amendments, corrections, or revisions, but excluding any subsequent amendments or changes.

— **Section 4. Definitions.**

— The following definitions shall apply in the interpretation and enforcement of these Rules. Where the context in which words are used in these Rules indicates that such is the intent, words in the singular number shall include the plural and vice versa.

~~Throughout these Rules gender pronouns are used interchangeably. The drafters have attempted to utilize each gender pronoun in equal numbers, in random distribution.~~

~~Words in each gender include individuals of the other gender.~~

~~(a) "Acquired brain injury." As defined in Chapter 43 of the Wyoming Medicaid Rules.~~

~~(b) "Acquired Brain Injury Home and Community Based Waiver." The Acquired Brain Injury Home and Community Based Waiver submitted to and approved by the Centers for Medicare and Medicaid Services, pursuant to Section 1915(c) of the Social Security Act.~~

~~(c) "Advocate." A person, chosen by the applicant or legal guardian, who supports and represents the rights and interests of the applicant in order to ensure the applicant's full legal rights and access to services. The advocate can be a friend, a relative, or any other interested person. An advocate has no legal authority to make decisions on behalf of an applicant.~~

~~(d) "Adult." A person eighteen years of age or older for purposes of this Chapter.~~

~~(e) "Adult Developmental Disabilities Home and Community Based Waiver."~~

~~The Adult Developmental Disabilities Home and Community Based Waiver submitted to and approved by the Centers for Medicare and Medicaid Services, pursuant to Section 1915(c) of the Social Security Act.~~

~~(f) "Applicant." An individual who has been through the screening process pursuant to Section 7 of this Chapter and who is receiving emergency funding.~~

~~(g) "Application." A written statement, in the form specified by the Division, which is submitted to the Division, in which an individual indicates that he or she is interested in receiving covered services. An application may be submitted by one person on behalf of another, but shall have the legal guardian's signature, if applicable.~~

~~(h) "Assessment." A determination, pursuant to Section 6 of Chapter 41, Chapter 42, or Chapter 43 of the Wyoming Medicaid Rules, of an individual's functional capacity and needs.~~

~~(i) "Behavior support plan." A written plan that is developed based on a functional assessment of behaviors that negatively impact a person's ability to acquire, retain and/or improve the self help, socialization and adaptive skills necessary to reside successfully in home and community based settings, and that contains multiple intervention strategies designed to modify the environment and teach new skills.~~

~~(j) "Caregiver." A person who provides services to an applicant.~~

~~(k) "Centers for Medicare and Medicaid Services (CMS)." The Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services, its agent, designee or successor.~~

—(l)— "~~Chapter 1.~~" ~~Chapter 1 of the Developmental Disabilities Division Rules, Rules for Individually Selected Service Coordination.~~

—(m)— "~~Chapter 41.~~" ~~Chapter 41, Adult Developmental Disabilities Home and Community Based Waiver of the Wyoming Medicaid Rules.~~

—(n)— "~~Chapter 42.~~" ~~Chapter 42, Children Developmental Disabilities Home and Community Based Waiver of the Wyoming Medicaid Rules.~~

—(o)— "~~Chapter 43.~~" ~~Chapter 43, Acquired Brain Injury Waiver Home and Community Based Waiver of the Wyoming Medicaid Rules.~~

—(p)— "~~Chapter 44.~~" ~~Chapter 44, Environmental Modifications and Specialized Equipment for Home and Community Based Waivers of the Wyoming Medicaid Rules.~~

—(q)— "~~Chapter 45.~~" ~~Chapter 45, Waiver Provider Certification and Sanctions of the Wyoming Medicaid Rules.~~

—(r)— "~~Children's Developmental Disabilities Home and Community Based Waiver.~~" ~~The Children's Developmental Disabilities Home and Community Based Waiver submitted to and approved by the Centers for Medicare and Medicaid Services, pursuant to Section 1915(c) of the Social Security Act.~~

—(s)— "~~Claim.~~" ~~A request by a provider for payment for covered services provided to an applicant.~~

—(t)— "~~Clinically eligible.~~" ~~Determination that an applicant has met the requirements set forth in Section 6 of Chapter 41, Chapter 42, or Chapter 43 of the Wyoming Medicaid Rules.~~

—(u)— "~~Covered services.~~" ~~Those services that are reimbursable pursuant to Section 8 of this Chapter.~~

—(v)— "~~Department.~~" ~~The Wyoming Department of Health, its agent, designee, or successor.~~

—(w)— "~~Department of Family Services (DFS).~~" ~~The Wyoming Department of Family Services, its agent, designee, or successor.~~

—(x)— "~~Developmental disability.~~" ~~As defined in Chapter 41 and 42 of the Wyoming Medicaid Rules.~~

—(y)— "~~Director.~~" ~~The Director of the Department of Health or the Director's agent, designee, or successor.~~

—(z)— "~~Division.~~" ~~The Developmental Disabilities Division of the Department of Health, its agent, designee, or successor.~~

~~— (aa) "Drug used as a restraint." Any drug that:~~

~~— (i) Is administered to manage a person's behavior in a way that reduces the safety risk to the person or others, and~~

~~— (ii) Has the temporary effect of restricting the person's freedom of movement, and~~

~~— (iii) Is not a standard treatment for the person's medical or psychiatric condition.~~

~~— (bb) "Emergency." A circumstance or set of circumstances or the resulting state that calls for immediate action or an urgent need for assistance or relief, as defined in Section 6 of this Chapter.~~

~~— (cc) "Emergency Case Management." Services provided, as defined in Section 8, that are provided by an Individually Selected Service Coordinator.~~

~~— (dd) "Emergency referral." A person who: (1) is potentially eligible for covered services; and (2) has an emergency.~~

~~— (ee) "Emergency Service Plan." A plan that addresses the basic health, safety, medical, and support needs of a person and that includes the services provided.~~

~~— (ff) "Extraordinary Care Committee (ECC)." A committee that has the authority to approve or deny individual plans of care, emergency funding, and funding due to a material change in circumstance or other condition justifying an increase in funding as defined in Section 12 of Chapter 41, Chapter 42, or Chapter 43 of the Wyoming Medicaid Rules.~~

~~— (gg) "Financial records." All records, in whatever form, used or maintained by a provider in the conduct of its business affairs and which are necessary to substantiate or understand the information contained in the provider's cost reports or a claim.~~

~~— (hh) "Functionally necessary." A service that is:~~

~~— (i) Required due to the diagnosis or condition of the applicant, and~~

~~— (ii) Recognized as a prevailing standard or current practice among the provider's peer group, or~~

~~— (iii) Intended to make a reasonable accommodation for functional limitations of an applicant, to increase an applicant's independence, or both.~~

~~— (iv) Provided in the most efficient manner and/or setting consistent with appropriate care required by the applicant's condition.~~

~~——(v) For the purposes stated, utilization is neither experimental nor investigational and is generally accepted by the medical community.~~

~~——(ii) "Funding." State funds available to pay for covered services. Funding does not include any other funds available to the Department that are not designated for covered services.~~

~~——(jj) "Generally Accepted Auditing Standards (GAAS)." Current auditing standards, practices, and procedures established by the American Institute of Certified Public Accountants.~~

~~——(kk) "Guardian." A person lawfully appointed as guardian to act on the behalf of the applicant.~~

~~——(ll) "Individually Selected Service Coordinator (ISC)." For the purposes of this Chapter, an individual or entity that is qualified pursuant to Chapter 1, Rules for Individually Selected Service Coordination of the Rules of the Developmental Disabilities Division, to act as an individually selected service coordinator, and to provide emergency case management services.~~

~~——(mm) "Inventory for Client and Agency Planning (ICAP)." An instrument used by the Division to help determine eligibility and to determine the needs of the applicant, available from Riverside Publishing, its successor, or designee.~~

~~——(nn) "Institution." An Intermediate Care Facility for people with Mental Retardation (ICF/MR), nursing facility, hospital, prison, or jail.~~

~~——(oo) "Mechanical restraint." Any device attached or adjacent to a person's body that he or she cannot easily move or remove that restricts freedom of movement or normal access to the body.~~

~~——(pp) "Medicaid." Medical assistance and services provided pursuant to Title XIX of the Social Security Act, 42 U.S.C. § 1900, et seq. and the Wyoming Medical Assistance and Services Act. "Medicaid" includes any successor or replacement program enacted by Congress and/or the Wyoming Legislature.~~

~~——(qq) "Medical records." All documents, in whatever form, in the possession of or subject to the control of a provider, which describe the applicant's diagnosis, condition or treatment, including, but not limited to, the emergency service plan.~~

~~——(rr) "Medicare." The health insurance program for the aged and disabled established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. § 1395, et seq. "Medicare" includes any successor or replacement program enacted by Congress and/or the Wyoming Legislature.~~

~~——(ss) "Mental retardation." As defined in Chapter 41 and Chapter 42 of the Wyoming Medicaid Rules.~~

~~——(tt) "Personal restraint." The application of physical force or physical presence without the use of any device, for the purposes of restraining the free movement of the body of the person.~~

~~The term personal restraint does not include briefly holding without undue force a person in order to calm or comfort him or her, or holding a person's hand to safely escort him or her from one area to another.~~

~~—(uu) "Physician." A person licensed to practice medicine or osteopathy by the Wyoming Board of Medical Examiners or a similar agency in a different state.~~

~~—(vv) "Provider." A person or entity that is certified by the Division to furnish covered services and is currently enrolled as a Medicaid Waiver provider.~~

~~—(ww) "Psychologist." A person licensed to practice psychology pursuant to W.S. § 33-27-113(a)(v).~~

~~—(xx) "Related condition." As defined in Chapter 41 and Chapter 42 of the Wyoming Medicaid Rules.~~

~~—(yy) "Restraint." A "personal restraint," "mechanical restraint," or "drug used as a restraint," as defined in this section.~~

~~—(zz) "Seclusion." The involuntary confinement of a person alone in a room or an area from which the person is physically prevented from leaving. Providers seeking reimbursement for services shall not use seclusion.~~

~~—(aaa) "Services." Medical, habilitation, or other services, equipment, or supplies appropriate to meet the needs of an applicant.~~

~~—(bbb) "Skilled nursing services." Services listed in the emergency service plan that are within the scope of the Wyoming Nurse Practice Act.~~

~~—(ccc) "Supervision and Safety Services." For the purposes of this Chapter, services designed to meet the applicant's health, safety, and supervision needs.~~

~~—(ddd) "Waiver." Any Home and Community Based Waiver administered by the Division that has been submitted to and approved by the Centers for Medicare and Medicaid Services pursuant to Section 1915(c) of the Social Security Act.~~

~~**Section 5. Philosophy.**~~

~~—(a) All persons possess inalienable rights under the Constitutions of the United States and the State of Wyoming. Persons with developmental disabilities also possess the rights outlined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. §15001.~~

~~—(b) It is the philosophy of the Division to develop reasonable and enforceable rules for the provision of services to individuals with developmental disabilities and acquired brain injuries in community settings in lieu of unnecessary institutionalization.~~

~~— This philosophy is mandated in the Supreme Court ruling on *Olmstead v. L.C., ex rel., Zimring*, 527 U.S. 581 (1999).~~

~~— (c) This Chapter is designed not only to support the philosophy of community based services, but to also protect the health, welfare, and safety of applicants.~~

~~— **Section 6. Criteria for Identifying and Funding an Emergency Referral.**~~

~~— (a) Criteria for identifying persons in an emergency situation, including anyone who:~~

~~— (i) Has a history of developmental disabilities or brain injury, but has not completed the eligibility process for a home and community based waiver, as defined in Chapters 41, 42, and 43 respectively, and~~

~~— (ii) Requires 24 hour support or 24 hour access to services, and~~

~~— (iii) For whom there exists a substantial threat to his or her life or health caused by:~~

~~— (A) The death or incapacitation of the person's primary caregiver that results in homelessness or inability to live safely in the home, or~~

~~— (B) Abuse, neglect, abandonment, exploitation, or self neglect that is substantiated by the Wyoming Department of Family Services, Protection and Advocacy or law enforcement, and:~~

~~— (I) The person is removed from the home, and~~

~~— (II) A victim's shelter or homeless shelter is not an appropriate setting for temporary shelter and support for the person, or there is no local shelter for the person to reside, or~~

~~— (III) Due to other conditions of the emergency or the person's condition, an existing waiver provider would be the most appropriate and safe emergency intervention or shelter.~~

~~— (b) Criteria used to determine eligibility for services under this Chapter includes:~~

~~— (i) The screening tool defined in Section 7 of this Chapter indicates person has a developmental disability or acquired brain injury and is likely to meet the clinical eligibility requirements for one of the waivers, and~~

~~— (ii) The screening tool verifies the situation meets the definition of emergency pursuant to this Chapter, and~~

~~— (iii) The person does not qualify for any other emergency funding or emergency services that would alleviate the emergency situation.~~

~~Section 7. Process for Identification and Screening of Emergency Referrals.~~

~~(a) Any person may request that the Division consider whether an individual has an emergency.~~

~~(b) Once a potential emergency referral has been identified:~~

~~(i) A basic screening of the person and situation is coordinated by a representative from the Division within one business day with support from a team that may include but is not limited to a representative from each of the following:~~

~~(A) Department of Family Services Protective Services Unit;~~

~~(B) Community Mental Health Center;~~

~~(C) Registered nurse certified as a waiver home and community based waiver provider, registered nurse working for a Home and Community Based waiver provider, Division nurse or Public Health Nurse, if available;~~

~~(D) Law enforcement as appropriate.~~

~~(ii) The screening shall include the following components as determined by the Division:~~

~~(A) Interview with person, family, caregivers, or others involved in the person's life to determine if there is documentation verifying or indicating a possible developmental disability or acquired brain injury, including, but not limited to:~~

~~(I) School records.~~

~~(II) Medical records.~~

~~(III) Psychological assessment, neuropsychological assessment, or other records.~~

~~(B) Screening of functional limitations, including, but not limited to:~~

~~(I) Communication.~~

~~(II) Activities of daily living.~~

~~(III) Mobility.~~

~~(C) Description of situation that resulted in emergency and description of which agency or agencies may have a role in providing funding or other services to person.~~

~~_____ (D) Contact information on person's guardian, family, or any other individual who could serve as person's advocate.~~

~~_____ (E) Any other information gathered during the interview that is pertinent to the assessment of the emergency situation.~~

~~_____ (iii) The representative from the Division compiles the results of the screening and submits the information to the Division Administrator or designee within one (1) business day of completion of the screening, unless there are significant and immediate health and safety concerns. In these cases, the representative from the Division shall contact the Division Administrator or designee immediately upon completion of screening tool.~~

~~_____ (iv) The Division Administrator or designee reviews the report upon receipt, determines if the person meets the definition and criteria for an emergency, and shares report with other appropriate agencies as permissible by State and Federal rules.~~

~~_____ (A) If the person meets the definition and criteria for an emergency, the Division will identify and contact a provider who is available to provide emergency services, including emergency case management services, within one (1) business day.~~

~~_____ (B) If the person does not meet the definition and criteria for an emergency, the Division shall assist the appropriate agencies to identify other resources for assistance as permissible by State and Federal rules.~~

~~_____ **Section 8. Covered Services.**~~

~~_____ The services listed in this section are covered services if they are functionally necessary and part of a current emergency service plan approved by the Division. The Division shall establish rates for covered services.~~

~~_____ (a) Emergency Case Management Services:~~

~~_____ (i) Due to the critical nature of emergency situations, completion of the following emergency case management services shall occur as quickly as possible to alleviate the emergency and to quickly identify resources, services, and supports that the applicant can access:~~

~~_____ (A) Gathering and compiling medical, educational, social, and other information.~~

~~_____ (B) Coordinating completion of applications for Title XIX services, Medicare, social security, mental health services, vocational rehabilitation, and any other pertinent services.~~

~~_____ (C) Applying for a temporary Medicaid number for the applicant, so that the psychological or neuropsychological assessment and Inventory for Client and Agency~~

Planning can be completed to determine eligibility for a home and community based waiver, pursuant to Section 10 of this Chapter.

~~————— (D) Developing and submitting the emergency service plan to the Division.~~

~~————— (E) Providing on going oversight of the services provided to the applicant to assure health and safety needs are met.~~

~~—— (b) Room and Board.~~

~~————— (i) Compensation for room and board until the applicant, if eligible, is funded on one of the home and community based waivers, or until the applicant receives social security income or other means to pay room and board, whichever comes first.~~

~~—— (c) Skilled Nursing Services.~~

~~—— (d) Supervision and Safety Services.~~

~~————— (i) Supervision and Safety services for the purposes of this Chapter shall include 24-hour services that may be provided in a residential, day program, community based setting, and/or the person's home.~~

~~—— (e) The Division may pre approve, in writing, other unusual or specialized needs necessary for the applicant's health and safety or eligibility determination on a case by case basis.~~

~~—— **Section 9. Development and Approval of the Emergency Service Plan.**~~

~~—— (a) Within two (2) business days of the Division approving funding of an emergency referral, the provider shall submit an emergency service plan to the Division listing the services to be provided and the rates for services as agreed upon. The emergency service plan shall, as much as possible, be person centered. The plan shall be completed on a form designed by the Division and shall include the following information:~~

~~————— (i) Pertinent health and safety information as available, including, but not limited to:~~

~~————— (A) Diagnoses.~~

~~————— (B) Medications.~~

~~————— (C) Behavioral support needs, including identification of rights restrictions and a basic positive behavior support plan, if targeted behaviors are known and if there is a possibility that restraints will be used.~~

~~————— (D) Supervision needs.~~

~~_____ (E) Identification of assessments and health care visits being scheduled.~~

~~_____ (ii) A basic schedule of services, including:~~

~~_____ (A) Locations of service.~~

~~_____ (B) Anticipated supervision level.~~

~~_____ (C) Activities.~~

~~_____ (iii) Preliminary information on a plan for action if the applicant ultimately is not eligible for home and community based waiver services.~~

~~_____ (b) The emergency service plan shall be approved by the Division in order for services to be reimbursed.~~

~~_____ (i) The Division shall have three (3) business days to review and approve the plan, which shall have an effective date of the date the provider assumed responsibility for the applicant.~~

~~_____ (c) Upon approval of the service plan, providers shall provide services and supports pursuant to the plan.~~

~~_____ (d) Providers approved to provide emergency services shall also adhere to all the applicable standards in Chapter 45.~~

~~_____ (e) In no event shall the Division be required to provide or fund covered services in the absence of available funding, or if there is evidence that the applicant will not meet the clinical eligibility for a home and community based waiver.~~

~~_____ **Section 10. Application for Home and Community Based Waiver Services.**~~

~~_____ (a) The applicant's emergency case manager shall schedule a psychological or neuropsychological assessment within two (2) business days of approval of the emergency funding for the applicant, informing the psychologist that this is an emergency situation.~~

~~_____ (i) If the psychological or neuropsychological cannot be completed within thirty (30) calendar days, including the written report submitted to the case manager, the emergency case manager shall contact the Division for assistance in identifying a psychologist who can complete the assessment within that time frame.~~

~~_____ (b) The Division shall work with the emergency case manager to arrange for an emergency Inventory for Client and Agency Planning to be completed within the 30-day period.~~

~~— (c) Upon completion of the assessments clinical eligibility for one (1) of the home and community based waivers shall be determined pursuant to Chapter 41, Chapter 42, or Chapter 43.~~

~~— (i) If the applicant is determined to be clinically eligible for a waiver, the applicant is classified as an emergency referral, and funding for the waiver shall be determined pursuant to Section 14 of Chapter 41, Chapter 42, or Chapter 43.~~

~~— (A) The Division shall continue to fund the emergency services pursuant to this Chapter until the Extraordinary Care Committee (ECC) meets to determine the status of funding for the person and an individual plan of care has been approved by the Division.~~

~~— (ii) If the applicant is determined to not meet clinical eligibility requirements for a waiver, the applicant and provider shall be notified by certified mail.~~

~~— (A) The Division shall fund the emergency services for 30 calendar days after the determination of ineligibility is completed.~~

~~— (B) Immediately upon notification from the Division that the applicant is not eligible for a waiver, the emergency case manager shall begin implementing the contingency plan and work with other appropriate agencies and resources to assist the person in transitioning out of services.~~

~~— Section 11. Submission and Payment of Claims.~~

~~— (a) In order for claims to be paid, providers shall submit claims on an invoice on a monthly basis to the Division within sixty (60) calendar days after provision of services.~~

~~— (i) The Division shall review claims to assure compliance with the service plan and shall submit the claim for payment to the Department of Health Fiscal Services and subsequently to the Wyoming Auditor's office for final approval and payment.~~

~~— Section 12. Audits.~~

~~— (a) The Division may audit a provider's financial records, medical records, or employment records at any time to determine whether the provider has received excess payments or overpayments.~~

~~— (b) The Division may perform audits through employees, agents, or through a third party. Audits shall be performed in accordance with generally accepted auditing standards.~~

~~— (c) Disallowance. The Division shall recover excess payments or overpayments for services that were not approved in the person's service plan.~~

~~— (d) Reporting audit results. If at anytime during a financial audit or a medical audit, the Division discovers evidence suggesting fraud or abuse by a provider, that evidence, in addition to~~

the Division's final audit report regarding that provider, shall be referred to appropriate authorities.

~~— (e) The Division shall share the results of the audit with the provider before excess payments or overpayments are recovered. However, nothing in this section shall abrogate the rights of the State to recover excess payments or overpayments.~~

~~— **Section 13. Reconsideration.** A provider may request that the Department reconsider a decision to recover excess payments or overpayments. The request for reconsideration, the reconsideration, and any administrative hearing shall be pursuant to the reconsideration provisions of Chapter 3, Chapter 16, or Chapter 39, as applicable.~~

~~— **Section 14. Disposition of Recovered Funds.** The Department shall dispose of recovered funds pursuant to the provisions of Chapter 16.~~

~~— **Section 15. Interpretation of Chapter.**~~

~~— (a) The interpretation of this Chapter is at the sole discretion of the Wyoming Department of Health.~~

~~— (b) The order in which the provisions of this Chapter appear is not to be construed to mean that any one provision is more or less important than any other provision.~~

~~— (c) The text of this Chapter shall control the titles of its various provisions.~~

~~— **Section 16. Superseding Effect.** This Chapter supersedes all prior rules or policy statements issued by the Division, including provider manuals and provider bulletins, which may be inconsistent with this Chapter.~~

~~— **Section 17. Severability.** If any portion of this Chapter is found to be invalid or unenforceable, the remainder shall continue in full force and effect.~~

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