



## 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 Repealed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 Repealed
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 Repealed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 Repealed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 Repealed
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 Repealed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 Repealed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 Repealed
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 Repealed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 Repealed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:
-------	-------	-------	-----------

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:
--

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>	



## Additional Rule Information

Revised September 2016

<b><u>1. General Information</u></b>			
a. Agency/Board Name			
b. Agency/Board Address		c. City	d. Zip Code
e. Na Name of Agency Liaison		f. Agency Liaison Telephone Number	
g. Agency Liaison Email Address			h. Adoption Date
i. Program			

<b><u>2. Rule Type and Information, Cont.</u></b>
---

a. Provide the Chapter Number, Title, and Proposed Action for Each Chapter.					
	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
	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
	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
	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
	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

# **Statement of Reasons**

## **Adult Developmentally Disabled Programs and Services**

### **Chapters 1 - 3**

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 3 of Adult Developmentally Disabled Programs and Services are being repealed because all waiver services are administered through the Medicaid program, and necessary language regarding compliance with CARF and eligibility determination 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  
GENERAL INTRODUCTION AND INFORMATION

[This chapter is repealed.]

# Adult Developmentally Disabled Programs and Services

## Chapter 1

### General Introduction and Information

[This Chapter is repealed]

~~**Section 1.—Purpose.** The purpose of this document is to establish minimum standards for services to adults afflicted with developmental disabilities. The standards herein adopted are intended to protect the public from unsafe practices and to set forth requirements which will ensure high quality care and training, in the least restrictive setting, at the lowest possible cost. The Division of Community Programs of the Department of Health and Social Services shall purchase adult developmental disabilities services only from those adult developmental disabilities programs which are accredited by the Commission on the Accreditation of Rehabilitation Facilities (CARF).~~

~~**Section 2.—Statutory Authority.** The standards are adopted pursuant to the authority vested in the Department of Health and Social Services by 4.5.35-1-620(b) and 4.5.9-2-102(a)(iii).~~

~~**Section 3.—Applicability of the Standards.** These standards are applicable to all adult developmental disabilities programs from which the Division of Community Programs, Office of Developmental Disabilities, purchases services(s), who are not currently accredited by CARF.~~

~~**Section 4.—Exception.** The Division of Community Programs has the option of purchasing services for developmentally disabled adults from an agency that is not accredited by CARF if:~~

~~a.—The agency has been in existence for less than twelve months; or~~

~~b.—The agency has been in existence for more than twelve months, but has been providing services to developmentally disabled adults for less than twelve months.~~

~~**Section 5.—Compatibility with Other Laws, Rules and Regulations.** These standards are intended to supersede existing State regulations governing the operation of programs or provision of services to adults afflicted with developmental disabilities, and shall be considered to supplement applicable federal laws, rules and regulations.~~

~~**Section 6.—Definitions.** As used in these standards, the term:~~

~~a.—"Abeyance" means the up to twelve month delay in the accreditation decision that CARF can use to provide a facility the time to correct significant deficits.~~

~~b.—"Adult" means an individual who has reached the twenty first (21) anniversary of his birth.~~

~~c.—"Developmental disability" is defined as a "severe, chronic, disability which (a) is attributable to a mental or physical impairment or a combination of mental or physical impairments; (b) is manifested before the person attains age twenty two (22); (c) is likely to~~

~~continue indefinitely; (d) results in substantial functional limitations in three or more of the following areas of major life activities; (i) self care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self direction, (vi) capacity for independent living, or (vii) economic self sufficiency; (e) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are a life long duration and are individually planned and coordinated.~~

~~—d.—"Department" means the Department of Health and Social Services.~~

~~—e.—"Division" means the Division of Community Programs within the Department of Health and Social Services.~~

## CHAPTER 2

### COMPLIANCE WITH COMMISSION ON ACCREDITATION OF REHAB FACILITIES (CARF)

[This chapter is repealed.]

# Adult Developmental Disabilities Programs and Services

## Chapter 2

### Compliance with Commission on Accreditation of Rehabilitation Facilities (CARF) Standards

[This Chapter is repealed]

~~**Section 1.** Compliance with the "Standards Manual for Facilities Serving People with Disabilities" of the Commission on Accreditation of Rehabilitation Facilities. The Department requires that any developmental disability adult program providing services, in any way funded by the Division of Community Programs, Office of Developmental Disabilities, to adults who are afflicted with a developmental disability complies with the standards listed in the "Standards Manual for Facilities Serving People with Disabilities" of the Commission on Accreditation of Rehabilitation Facilities (CARF), copyright 1986, which are herein adopted as the Departmental standards.~~

~~— **Section 2.** Levels of accreditation:~~

~~— a. — The Department may contract with an agency providing services to adults afflicted with developmental disability, which is accredited at either the one or three year level.~~

~~— b. — An agency which is reviewed for the first time by CARF and is given an abeyance is not considered CARF accredited.~~

~~— c. — An agency which while previously accredited is given an abeyance during a reaccreditation survey is considered to be CARF accredited.~~

CHAPTER 3  
DETERMINATIONS OF ELIGIBILITY

[This chapter is repealed.]

## CHAPTER 3

### Determinations of Eligibility

[This Chapter is repealed]

~~**Section 1. Purpose.** The purpose of this document is to establish standards for the determinations and reviews of determinations of eligibility for developmental disabilities services.~~

~~**Section 2. Statutory Authority.** These standards are adopted pursuant to the authority vested in the Department of Health and Social Services by W.S. 35-1-620(b) and W.S. 9-2102(a)(iii).~~

~~**Section 3. Applicability of the Standards.** These standards are applicable to all adult developmental disabilities programs from which the Division of Community Programs, Office of Developmental Disabilities, purchases services.~~

~~**Section 4. Compatibility with Other Laws, Rules and Regulations.** These standards are not intended to supersede existing State regulations governing the operation of programs or provision of services to adults afflicted with developmental disabilities, and shall be considered to supplement applicable federal laws, rules and regulations.~~

~~**Section 5. Definitions.** As used in these standards, the term:~~

~~a) "Administrator" means the administrator of the Division of Community Programs.~~

~~b) "Advocate" means the parent, guardian, provider or other party that represents the client's grievance and/or assists the client with the grievance process.~~

~~c) "Client" means a person for whom a provider performs or proposes to perform service(s) in matters other than routine information and referral requests.~~

~~d) "Division" means the Division of Community Programs within the Department of Health and Social Services.~~

~~e) "Office" means the Office of Developmental Disabilities within the Division.~~

~~f) "Provider" means any agency with which the Division of Community Programs contracts for the provision of services to adults with a developmental disability.~~

~~g) "Reviewer" means a person or agency qualified to evaluate and/or judge the degree to which the client is developmentally disabled.~~

~~**Section 6. Review of Eligibility.** The Provider shall determine the eligibility of a person as developmentally disabled. However, nothing precludes the Division from altering eligibility decisions as a result of on-site reviews. Such alterations of eligibility shall be subject to these rules.~~

~~— a) — Upon notification to the client regarding his or her eligibility determination, the Provider shall inform the client of the right to request a Division review of the Provider's decision.~~

~~— b) — The Client's request for the Division's review must be made within twenty (20) calendar days of the eligibility notice. The review request must be accompanied by an authorized client information release form, and if available, documents, evaluation reports, and/or other information may be submitted at that time.~~

~~— c) — The Office shall constitute a committee which shall determine the eligibility of a person as developmentally disabled.~~

~~———— 1) — The Office shall review all documents provided by the Client or Advocate to support or clarify the determination of eligibility;~~

~~———— 2) — May request additional information or clarification of information from the Client or Advocate prior to making a determination of eligibility;~~

~~———— 3) — May contract with one or more independent reviewers to review appropriate documents and recommend a determination of eligibility to the Administrator; or~~

~~———— 4) — May purchase independent evaluations as is necessary to render a determination of eligibility.~~

~~— d) — The Division will provide a written notice of the disposition of its review within forty-five (45) days after receiving the Provider's written request. Said time limit may be extended upon stipulation of agreement by the Administrator and the Client/Advocate.~~

~~— e) — Should the client be aggrieved by the decision of the committee regarding eligibility, the Client may appeal the decision in accordance with Chapter XI of the Division Rules as a contested case.~~

-