



Notice of Intent to Adopt Rules

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

Revised November 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		

* By checking this box, the agency is indicating it is exempt from certain sections of the Administrative Procedure Act including public comment period requirements. Please contact the agency for details regarding these rules.

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 Repealed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 Repealed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 Repealed
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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 Repealed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 Repealed

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>	



Additional Rule Information

Revised November 2016

<u>1. General Information</u>		
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. Program		

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

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
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Rules and Regulations for the Prescription Drug Assistance Program (PDAP)
Intent to Repeal Rule

Chapter 1

Statement of Reasons

The Wyoming Department of Health proposes to repeal the following Rule pursuant to the provisions of W.S. 25-9-101 and the Wyoming Administrative Procedure Act at W.S. 16-3-101 through 115.

The Department and the Healthcare Financing Division is repealing this Rule to comply with Governor Matthew H. Mead's budget directive.

Chapter 1
Prescription Drug Assistance Program

This chapter is repealed.

DEPARTMENT OF HEALTH CHAPTER 1
PRESCRIPTION DRUG ASSISTANCE PROGRAM

CHAPTER 1

Chapter 1 has been repealed.

~~Section 1. — Authority.~~

~~This Chapter is promulgated by the Department pursuant to the Prescription Drug Assistance Act, 2002 Wyoming Senate Bill No. 34, to be codified as W. S. 42-4-118, and the Wyoming Administrative Procedures Act as W. S. 16-3-101 et seq.~~

~~Section 2. — Purpose and applicability.~~

~~(a) — This Chapter shall apply to and govern all aspects of the Prescription Drug Assistance Program. This Chapter shall become effective for services provided on or after July 1, 2002.~~

~~(b) — The Department shall issue Manuals, Bulletins, or both, to interpret the provisions of this Chapter. Such Manuals and Bulletins shall be consistent with and reflect the policies contained in this Chapter. The provisions contained in Manuals or Bulletins shall be subordinate to the provisions of this Chapter.~~

~~(c) — 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.~~

~~Section 3. — General Provisions.~~

~~(a) — This Chapter is intended to be read in conjunction with the Prescription Drug Assistance Act, 2002 Wyoming Senate Bill No. 34, to be codified as W. S. 42-4-118, and the Wyoming Medicaid Rules, except as set forth below.~~

~~(b) — In accordance with Section 1 of 2002 Wyoming Senate File 34, W.S. 42-4-118(a), nothing in this Chapter shall be construed as providing an individual with an entitlement to this program.~~

~~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 except where the context dictates otherwise. The drafters have attempted~~

~~to utilize each gender pronoun in equal numbers in random distribution. Words in each gender shall include individuals of the other gender.~~

~~(a) — "Act." The Prescription Drug Assistance Act, 2002 Wyoming Senate Bill No. 34, to be codified as W. S. 42-4-118.~~

~~(b) — "Adverse action." The denial, suspension, or termination of benefits, other than a suspension or termination caused by a suspension of the Program pursuant to Section 12 or a change in State law, including an amendment to this Chapter.~~

~~(c) — "Alien." A person residing in, and who is not a citizen of, the United States of America.~~

~~(d) — "Applicant." An individual on whose behalf an application for coverage by the Program has been submitted, but there has been no final determination of eligibility.~~

~~(e) — "Application." The form, specified by the Department, on which an applicant indicates in writing the desire to receive benefits.~~

~~(f) — "Application date." The date an application is received and date stamped by DFS.~~

~~(g) — "Approve." To determine an applicant is eligible for program benefits.~~

~~(h) — "Assistance unit." The financially responsible persons living together whose income is considered in determining eligibility for program benefits.~~

~~(i) — "Benefit month." The calendar month for which program eligibility will be approved.~~

~~(j) — "Benefits." Coverage under the program.~~

~~(k) — "Benefit year." The twelve month period following the benefit start date, and each twelve month period thereafter so long as an insured remains eligible.~~

~~(l) — "Biennium." The period covering two State fiscal years following each regularly scheduled budget session of the Wyoming Legislature.~~

~~(m) — "Change in income." An increase of one third or more in the monthly income of an assistance unit.~~

~~(n) — "Change report." A form, as prescribed by the Department, used to report a change in income to DFS.~~

~~(o) — "Chapter 1 of the DFS rules." Chapter 1 of the DFS rules.~~

~~(p) — “Chapter 1 of the Medicaid Rules.” Chapter 1, Medicaid Fair Hearings, of the Wyoming Medicaid Rules.~~

~~(q) — “Chapter 3 of the Medicaid Rules.” Chapter 3, Provider Participation, of the Wyoming Medicaid Rules.~~

~~(r) — “Chapter 16 of the Medicaid Rules.” Chapter 16, Medicaid and State Funded Program Integrity, of the Wyoming Medicaid Rules.~~

~~(s) — “Chapter 39 of the Medicaid Rules.” Chapter 39, Recovery of Excess Payments, of the Wyoming Medicaid Rules.~~

~~(t) — “Claim.” A request by a provider for payment of PDAP funds for services provided to a recipient.~~

~~(u) — “Contested case.” Contested case as defined in Chapter 1, which definition is incorporated by this reference.~~

~~(v) — “Copayment.” A charge to a recipient for receiving covered services.~~

~~(w) — “Countable.” A category of income, or resources, which is used to determine program eligibility.~~

~~(x) — “Covered service.” Services provided to a recipient that may be reimbursed out of program funds as provided in this Chapter.~~

~~(y) — “Department.” The Wyoming Department of Health, its agent, designee, or successor.~~

~~(z) — “Department of Family Services (DFS).” The Wyoming Department of Family Services, its agent, designee, or successor.~~

~~(aa) — “Prescription Drug Assistance Program (PDAP)” The Prescription Drug Assistance Program established by the Act.~~

~~(bb) — “Prescription Drug Assistance Program (PDAP) allowable payment.” The maximum reimbursement for covered services as specified by this Chapter.~~

~~(cc) — “Prescription Drug Assistance Program (PDAP) funds.” That State general funds appropriated by the Wyoming State Legislature and available to the Department to make payments to providers for furnishing covered services to recipients.~~

~~(dd) — “Effective date of eligibility.” A recipient will be covered for services as of the first day of the month in which the recipient submitted an application.~~

~~(ee) — "Eligible." An applicant who is approved.~~

~~(ff) — "Excess payments." "Excess payments" as defined in Chapter 39, which definition is incorporated by this reference. Except that the phrase "Medicaid Funds" in Chapter 39 is replaced with "Program funds."~~

~~(gg) — "Federal poverty level." The poverty line as specified in the federal poverty guidelines as published and updated annually in the Federal Register pursuant to Section 673(2) of OBRA.~~

~~(hh) — "Financial records." All records, in whatever form, used or maintained by a provider which are necessary to substantiate or understand a claim submitted to the Department.~~

~~(ii) — "Formulary." "Formulary" as defined in Chapter 10, which definition is incorporated by this reference.~~

~~(jj) — "Income." Earned income, unearned income, or in kind payments received from any source, excluding money classified as a resource or exempt income:~~

~~(i) — Earned income includes:~~

~~(A) — Any payment received by an employee or agent in cash or in kind as wages, salary, tips, commissions, or pursuant to a contract.~~

~~(B) — Net profits received from activities in which the individual is engaged. "Net profits" means the total sum before deductions for personal or employment expenses and excludes the meal allowance used by the Federal Insurance Contribution Act (FICA).~~

~~(ii) — Exempt income. Money set aside or free from program policy limits and not counted against program income limits. The following income is exempt:~~

~~(A) — Income which is required to be excluded under a federal statute;~~

~~(B) — Unearned income paid in kind to a household member, such as payments made to a third party for food, shelter, clothing, or other needs;~~

~~(C) — Educational income, such as grants, scholarships, fellowships, education loans, and work study income paid to a person who is enrolled in an educational program;~~

~~(D) — Needs based veteran's benefits;~~

~~(E) — Reimbursement for expenses incurred by the individual;~~

and

~~(F) — Child care assistance paid under Title XX of the Social Security Act.~~

~~(iii) — In kind income. Goods or services received in lieu of cash. In kind income is countable when the individual has a legal right to liquidate such goods or services to cash.~~

~~(iv) — Unearned income. Income received which is neither earned by providing goods or services nor defined as a resource.~~

~~(kk) — "Income disregard." Income which is not included in countable income. Income disregards shall be determined as follows:~~

~~(i) — Each working member of a household shall receive a \$200.00 per month disregard, except that a married couple shall be entitled to a \$400.00 per month disregard;~~

~~(ii) — All earned income of a full time high school student under age eighteen (18) who is living with a caretaker relative;~~

~~(iii) — Twenty five percent of the assistance unit's gross self employment income or a deduction of actual business expenses; and~~

~~(iv) — Fifty (\$50.00) dollars of child support per assistance unit.~~

~~(ll) — "Inmate of a public institution." "Inmate of a public institution" as defined in 42 C.F.R. 435.1009, which definition is incorporated by this reference.~~

~~(mm) — "Medicaid." Medical assistance and services provided pursuant to Title XIX of the Social Security Act or the Wyoming Medical Assistance and Services Act of 1967, as amended. "Medicaid" includes any successor or replacement program enacted by Congress or the Wyoming Legislature.~~

~~(nn) — "Medically necessary." Medically necessary as defined by Chapter 3, which definition is incorporated by this reference.~~

~~(oo) — "Medical records." All records, in whatever form, in the possession of or subject to the control of a provider which describe a recipient's diagnosis, treatment or condition.~~

~~(pp) — "Medical supplies." Disposable, semi-disposable or expendable medical supplies.~~

~~(qq) — "Medicare approved Discount Card." A card that provides a discount on prescription drugs specifically for Medicare recipients that is approved by the Centers for Medicare and Medicaid Services.~~

~~(rr) — "Month." A calendar month.~~

~~(ss) — "Notice of action." A written notice mailed to a recipient which informs the recipient of intended action affecting eligibility for benefits. The notice shall include the action to be taken, the effective date of the action, and the legal authority for the action. Notice shall be timely if mailed, by first class United States mail, ten days before the effective date of the intended action.~~

~~(tt) — "OBRA." The Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35.~~

~~(uu) — "Overpayments." Program funds received by a provider as the result of fraud or abuse, as those terms are defined in Chapter 16 of the Medicaid Rules, which definitions are incorporated by this reference.~~

~~(vv) — "Periodic review." A review of a recipient's eligibility. A periodic review shall be conducted every twelve months after the effective date of eligibility. A periodic review is timely if it is conducted within one month before or one month after the effective date of eligibility.~~

~~(ww) — "Physician." A person licensed to practice medicine or osteopathy by the Wyoming State Board of Medical Examiners.~~

~~(xx) — "Prescription." "Prescription" as defined by Chapter 10, which definition is incorporated by this reference.~~

~~(yy) — "Program," The Prescription Drug Assistance Program.~~

~~(zz) — "Provider." A provider as defined by Chapter 3, which definition is incorporated by this reference.~~

~~(aaa) — "Recipient." An individual who has been determined and is currently eligible for the program.~~

~~(bbb) — "Residence." The place a recipient uses as his or her primary dwelling place and intends to continue to use indefinitely for that purpose.~~

~~(ccc) — "Resident." A person who lives in the State of Wyoming and has the intention of establishing a permanent residence in the State.~~

~~(ddd) — "Resource." Real or personal property in which an individual has a legal or equitable interest.~~

~~_____ (i) Exempt resources. A category of resources not subject to program policy or limits and is not counted. The following resources are exempt:~~

~~_____ (A) Any resource for which:~~

~~(I) A legal barrier exists; or~~

~~(II) A restriction exists, such as:~~

~~(1.) The resource is jointly owned and the co-owner (if the co-owner must legally consent to sale) cannot be located;~~

~~(2.) The resource is jointly owned and the co-owner (if the co-owner must legally consent to sale) has provided a statement of refusal to sell; or~~

~~(3.) Legal documents include a barrier to sale or inability to convert to cash.~~

~~_____ (B) Term insurance policies;~~

~~_____ (C) The family home or life estate in family home when lived in by the client, client's spouse or dependent relatives;~~

~~(D) The household furnishings belonging to the assistance unit;~~

~~(E) Trade in value less than fifteen thousand dollars (\$15,000) for one vehicle. Value of each additional vehicle is a countable resource; and~~

~~(F) Real property when the client is making a bona fide effort to sell the property.~~

~~(G) Vehicles and other resources used for self employment purposes.~~

~~(H) Resources which the assistance unit is making a bona fide effort to sell when:~~

~~(I) The bona fide effort to sell was initiated at least fifteen (15) days prior to application; and~~

~~(II) The bona fide effort to sell has not lasted more than ninety (90) days.~~

~~(eee) "Services." Health or medical services, medical supplies, or medical equipment.~~

~~(fff) "State fiscal year." July 1st through June 30th of the following calendar year.~~

~~(ggg) "State general funds." The dollar amount of the state funds appropriated by the Wyoming Legislature for the program and available for the Department to reimburse providers for furnishing covered services to recipients.~~

~~(hhh) "Termination." To remove a recipient from the program.~~

~~(iii) "Utilization controls." The standards and procedures established pursuant to Chapter 16 of the Medicaid rules, which are incorporated by this reference to deter and detect fraud or abuse by beneficiaries or providers.~~

~~(jjj) "Usual and customary charge." A provider's charge to the general public for the same or a similar service.~~

~~Section 5. — Eligibility.~~

~~(a) — Introduction. This section is intended to provide uniform procedures for determining eligibility for the PDAP.~~

~~(b) — Application process. DFS shall follow the process described below when an individual makes a request for the PDAP program:~~

~~(i) — An application form shall be provided;~~

~~(ii) — A separate application shall be required for each assistance unit, and the applicant shall be notified, in writing, of the result;~~

~~(iii) — The application shall be accepted when complete, and date stamped;~~

~~(iv) — Applicants shall be informed of the eligibility criteria and their rights and responsibilities for and services available under the program;~~

~~(A) — An application shall be approved if the applicant is found to be eligible; or~~

~~(B) — An application shall be denied if the applicant: (1) is found to be ineligible; (2) does not provide all required information; (3) has withdrawn the application; (4) is an inmate of a public institution; or (5) is not a resident of Wyoming,~~

~~(v) — Documentation of the action taken and the reasons for the action shall be placed in the applicant's case file.~~

~~(vi) — DFS shall provide written notice, delivered by first class United States mail, to the applicant of the determination.~~

~~(vii) — A completed application shall be acted upon within forty five (45) calendar days from the date it is received;~~

~~(e) — Rights of applicants. Applicants have the following rights:~~

~~(i) — To apply without delay at the DFS office of choice;~~

~~(ii) — To be accompanied or assisted by the person of choice in requesting or completing an application;~~

~~(iii) — To request assistance from DFS in completing an application;~~

~~(iv) — To apply for PDAP in the DFS office of choice, either in person or by mail, to leave the application at that DFS office, to have eligibility determined and maintained in that DFS office;~~

~~(v) — The application and all personally identifiable information shall be kept confidential and shall not be disclosed except as necessary to determine or verify eligibility or in accordance with the rules of the Department.~~

~~(vi) — To be treated with respect and nondiscrimination in accordance with applicable federal and state laws.~~

~~(vii) — Persons requesting program assistance shall be informed:~~

~~(A) — Orally or in writing of the program eligibility factors and required verifications;~~

~~(B) — In writing of the effective date of eligibility; and~~

~~(C) — In writing of their rights and responsibilities.~~

~~(viii) — The denial of an application for benefits is an adverse action and an applicant is entitled to reconsideration and an administrative hearing pursuant to W.S. 16-3-102 and W.S. 9-2-104(a)(vii).~~

~~(d) — Responsibilities of applicants.~~

~~(i) — An applicant must complete an application in the form and in the manner specified in writing by the Department. The application must be:~~

~~(A) — Completed;~~

~~(B) — Dated; and~~

~~(C) — Signed under penalty of perjury by the applicant.~~

~~(ii) — An applicant must cooperate fully in the process of determining eligibility, including the following:~~

~~(A) — Provide any and all necessary information required by the application; and~~

~~(B) — Promptly provide a notice of change to reflect change in income, a change of address, or a change in health insurance coverage.~~

~~(iii) — An applicant who is eligible for the Medicare approved prescription drug discount card, if cost effective, must:~~

~~(A) — Upon application, provide the cardholder information; and~~

~~(B) — Use the subsidy provided by the card.~~

~~(e) — Verifications. The following information shall be documented, and such documentation shall be maintained in the individual's case file:~~

~~(i) — Wyoming residence; and~~

~~(ii) — The reasons for the denial of eligibility.~~

~~(f) — Residents. Eligibility is limited to residents of Wyoming.~~

~~(g) — Eligible persons. Eligibility shall be limited to persons whose income is less than or equal to the Federal poverty level.~~

~~(h) — Income. Eligibility shall be determined using the countable income of the assistance unit in which the applicant lives.~~

~~(i) — Except as specified in paragraph (ii), eligibility shall be determined based on the applicant's family's countable income during the most recently completed calendar month.~~

~~(ii) — Income from self employment shall be based on the monthly average of the assistance unit's annual countable income for the previous twelve month period.~~

~~(i) — Resources. Eligibility shall be limited to those with countable resources less than Two Thousand Five Hundred Dollars (\$2,500).~~

~~(j) — Eligibility redetermination. DFS shall conduct twelve month periodic reviews to determine continuing eligibility. Such reviews shall be done on forms and in accordance with procedures developed and specified in Manuals or Bulletins by the Division.~~

~~(k) — Duration of eligibility. After being determined eligible, a recipient shall remain eligible for twelve months following the effective date of eligibility, or until the recipient becomes eligible for Medicaid or the recipient enters a public institution, whichever comes first, unless there is a change in income which renders the recipient ineligible.~~

~~(l) — Co-payments. Each recipient will be responsible for making co-payments pursuant to this subsection.~~

~~(i) Generic prescription drugs: \$10.00 per prescription; and~~

~~(ii) Brand name prescription drugs: \$25.00 per prescription.~~

~~(iii) Copayments may be adjusted pursuant to W.S. 42-4-118.~~

~~Section 6. — Provider Participation.~~

~~(a) — Payments only to providers. No individual or entity that furnishes covered services to a recipient shall receive PDAP funds unless the individual or entity is a provider.~~

~~(b) — Eligible providers. An individual or entity that furnishes covered services to a recipient must meet the provider participation requirements of Chapter 3, Provider Participation of the Wyoming Medicaid Rules which are incorporated by this reference.~~

~~(c) — Compliance with Chapter 3. An individual or entity which wishes to receive PDAP funds for covered services furnished to a recipient must meet the provider participation requirements of Chapter 3 Provider Participation of the Wyoming Medicaid Rules, which are incorporated by this reference.~~

~~Section 7. — Provider Records. A provider must comply with the record keeping requirements of Chapter 3, Provider Participation of the Wyoming Medicaid Rules, which are incorporated by this reference.~~

~~Section 8. — Verification of Recipient Data.~~

~~(a) — PDAP identification notices. DFS issues PDAP identification notices to recipients. Such notices are valid only for the month and year shown of the notice.~~

~~(b) — Failure to notify provider of eligibility. If a provider furnishes services to an individual who fails to notify the provider that he or she is a recipient, the provider may submit a claim to the Department or seek reimbursement or payment from the recipient. A provider that seeks PDAP reimbursement must accept such payments as payment in full, except that the provider may assess and seek to collect a copayment as provided in Section 5.~~

~~Section 9. — Covered Services.~~

~~(a) — PDAP will reimburse for the services provided in subsection (b) if the services are:~~

~~(i) — Medically necessary; and~~

~~(ii) — Prescribed by a health care provider licensed to prescribe and acting within the scope of his or her licensure.~~

~~(iii) — Services contained in the formulary.~~

~~(b) — Service limitations. PDAP shall not reimburse:~~

~~(i) — More than a 31-day supply of medication per prescription;~~

~~(ii) — Medical supplies, except diabetic supplies.~~

~~(iii) — Dispensing limitations. The dispensing limitations of Chapter 10, Pharmaceutical Services of the Wyoming Medicaid Rules, are incorporated by this reference.~~

~~(iv) — Additional service limitations. In no event shall the program reimburse for otherwise covered services:~~

~~(A) — In excess of the service limitations established pursuant to the Wyoming Medicaid Rules; or~~

~~(B) — In excess of the PDAP budget as established by the Wyoming Legislature.~~

~~(c) — Dissemination of formulary. The Wyoming Department of Health Pharmacy Unit shall disseminate the formulary, along with any updates, to providers through Manuals or Bulletins.~~

~~Section 10. — PDAP allowable payment.~~

~~(a) — In General. The PDAP allowable payment for covered services shall be the lower of the providers usual and customary charges or the payment specified in this Section.~~

~~(b) — Pharmaceutical services.~~

~~(i) — The PDAP allowable payment for pharmaceutical services shall be determined pursuant to the Medicaid allowable payment provisions of Chapter 10, Pharmaceutical Services of the Wyoming Medicaid Rules, which are incorporated by this reference, except that there shall be no exemptions from co payment, and the term "PDAP" shall be substituted for the term "Medicaid" in that rule.~~

~~(ii) — Copayment. PDAP services shall be subject to a copayment pursuant to Section 5.~~

~~Section 11. — Submission and payment of claims. Payment of claims shall be pursuant to the payment of claims provisions of Chapter 3, Provider Participation of the Wyoming Medicaid Rules, which are incorporated by this reference, except that the term "PDAP" shall be substituted for the term "Medicaid" in that rule.~~

~~Section 12. — Contingent on funding.~~

~~(a) — Payment contingent on funding. Payment to providers is contingent on the availability of PDAP funds. The Department shall not be obligated to make payments in the absence of such funds.~~

~~(b) — Projection of costs. The Department shall project costs of the program at least quarterly and compare those projected costs against PDAP funds. If the funds available to the program are insufficient to meet the projected costs of the program, the Department shall take action to prevent the program from incurring costs beyond available funds, including taking any of the following actions:~~

~~(i) — Imposing a moratorium on enrolling new recipients in the program;~~

~~(ii) — Reducing the income eligibility level specified in section 4 below the federal poverty level;~~

~~(iii) — Imposing higher prescription drug copayments not to exceed twenty five dollars (\$25.00) per prescription;~~

~~(iv) — Eliminating specified drugs from the formulary;~~

~~(v) — Carrying claims into the next biennium if the amount of claims is less than one twenty fourth (1/24) of the appropriation that has been enacted for the next biennium.~~

~~(e) — Automatic termination of PDAP. PDAP shall be automatically discontinued, and reimbursement for services shall be suspended, when and if PDAP funds become exhausted. Claims for services which have not been paid at the time PDAP is discontinued shall be suspended until such time as additional funds are appropriated. If additional, appropriated PDAP funds become available, claims which were suspended shall not be retroactively paid unless otherwise specified by the statute or appropriation which provides for additional PDAP funds.~~

~~(d) — Automatic Reinstatement of PDAP. PDAP shall be automatically reinstated, and reimbursement for services shall be reinstated, when and if the Legislature appropriates additional funds. Claims which were suspended shall not be retroactively paid unless otherwise specified by the statute or appropriation which provides for additional PDAP funds.~~

~~(e) — Notice of program reduction or termination. The Department shall provide thirty days written notice, if possible, to participating providers and recipients of any program reductions or termination of the program.~~

~~(f) — No appeal. A program reduction, termination, suspension, or the denial of eligibility because of a moratorium, shall not be adverse actions and shall not be subject to reconsideration pursuant to this Chapter or an administrative hearing pursuant to Chapter 1, Administrative Hearing of the Wyoming Medicaid Rules.~~

~~Section 13. — Audits~~

~~(a) — Financial audits. The Department may audit a provider's financial records at any time to determine the accuracy and appropriateness of claims submitted to the Department.~~

~~(b) — The Department may recover excess payments pursuant to Chapter 39, Recovery of Excess Payments of the Wyoming Medicaid Rules, which is incorporated by this reference.~~

~~(c) — The Department may recover overpayments pursuant to Chapter 16, Medicaid and State Funded Program Integrity of the Wyoming Medicaid Rules, which is incorporated by this reference.~~

~~Section 14. — 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, Provider Participation of the Wyoming Medicaid Rules, which are incorporated by this reference.~~

~~Section 15.— Disposition of recovered funds. The Department shall dispose of recovered funds pursuant to the provisions of Chapter 16, Medicaid and State Funded Program Integrity of the Wyoming Medicaid Rules, which provisions are incorporated by this reference.~~

~~Section 16.— Interpretation of Chapter.~~

~~(a) — 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.~~

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

~~Section 17.— Superseding effect. When promulgated, this Chapter supersedes all prior rules or policy statements issued by the Department, including provider manuals and provider bulletins, which are inconsistent with this Chapter.~~

~~Section 18.— Severability. If any provision of these rules or the application thereof to any person, program, service, or circumstance is held invalid, the invalidity shall not affect other provisions or applications of these rules. To the extent that these rules can be given effect without the invalid provision; the provision of these rules are severable.~~

Rules and Regulations for the Prescription Drug Consumer Information
and Technical Assistance Program
Intent to Repeal Rule

Chapter 3

Statement of Reasons

The Wyoming Department of Health proposes to repeal the following Rule pursuant to the provisions of W.S. 25-9-101 and the Wyoming Administrative Procedure Act at W.S. 16-3-101 through 115.

The Department and the Healthcare Financing Division is repealing this Rule to comply with Governor Matthew H. Mead's budget directive.

Chapter 3
Prescription Drug Consumer Information and Technical Assistance Program

This chapter is repealed.

DEPARTMENT OF HEALTH

**PRESCRIPTION DRUG CONSUMER INFORMATION TECHNICAL
ASSISTANCE PROGRAM**

CHAPTER 3

THIS CHAPTER IS REPEALED

~~Section 1. — Authority.~~

~~— This Chapter is promulgated by the Wyoming Department of Health pursuant to the Prescription Drug Consumer Information and Technical Assistance Program, codified as W.S. § 9-2-124, et seq. and the Wyoming Administrative Procedures Act W.S. §16-3-101, et seq. and W.S. § 9-2-106, et seq.~~

~~Section 2. — Purpose and Applicability.~~

~~(a) — This Chapter shall apply to and govern all aspects of the Prescription Drugs Technical Assistance Program.~~

~~(b) — It is the purpose of this program to provide Wyoming residents with advice on the prudent use of prescription drugs and how to access government and private prescription drug programs and discounts. The program shall include consultation by Wyoming licensed pharmacists for individuals with respect to how the individuals may, with the approval of the appropriate prescribing healthcare professional, avoid dangerous drug related problems and substitute more cost effective drugs for the drugs prescribed. In addition, the Department may identify clients whose prescription benefit is paid for through Medicaid, or another state funded program, such as Prescription Drug Assistance Program, for detailed medication reviews.~~

~~(c) — The Wyoming Department of Health may issue materials to providers and/or other affected parties to interpret the provisions of this Chapter. Such materials shall be consistent with and reflect the rules and regulations contained with this Chapter. The provisions contained in the materials shall be subordinate to the provisions of this Chapter.~~

~~(d) — 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.~~

~~Section 3. — General Provisions.~~

~~(a) This Chapter is intended to be read in conjunction with the Prescription Drug Consumer Information and Technical Assistance Program, W.S. § 9-2-124, et seq.~~

Section 4. Definitions.

~~The following definitions shall apply in the interpretation and enforcement of this rule. Where the context in which words are used in this rule indicates that such is the intent, words in the singular number shall include the plural and vice versa. Throughout this rule gender pronouns are used interchangeably, except where the context dictates otherwise. The drafters have attempted to utilize each gender pronoun in equal numbers in distribution. Words in each gender shall include individuals of the other gender.~~

~~(a) —“Application.” The form, specified by the Department, on which a client indicates in writing the desire to receive a consultation.~~

~~(b) —“Client.” An individual on whose behalf an application for consultation by the Program has been submitted.~~

~~(c) —“Client Fee.” A charge to a client for receiving consultation services.~~

~~(d) —“Client Representative.” A person who is authorized to submit an application on behalf of someone else; i.e., a spouse, parent, child, guardian, or someone with Power of Attorney.~~

~~(e) —“Consultation.” Review of client information by a Wyoming licensed Pharmacist contracted with the State of Wyoming, including a face-to-face or verbal interaction with client or their client representative.~~

~~(f) —“Department.” The Wyoming Department of Health, its agent, designee, or successor.~~

~~(g) —“HIPAA.” Health Insurance Portability and Accountability Act of 1996, Title II. Provides standards for patient health, administrative and financial data interchange and governs the privacy and security of health information records and transactions.~~

~~(h) —“Participating Pharmacist.” Pharmacist who has contracted with the Department of Health to perform consultations for the Prescription Drugs Technical Assistance Program.~~

~~(i) —“Physician.” A person licensed to practice medicine or osteopathy by the Wyoming State Board of Medical Examiners.~~

~~(j) —“Pharmacist.” Any pharmacist defined by W.S. § 33-24-118, licensed by the Wyoming Board of Pharmacy to prepare and dispense drugs, and contracted with the Department.~~

~~_____ (k) "Prescribing Healthcare Professional." Anyone licensed and authorized to prescribe in the State of Wyoming, including medical doctors, physician's assistants, and nurse practitioners.~~

~~(l) "Prescription." An order for medication which is dispensed to or for an ultimate user, but does not include an order for medication which is dispensed for immediate administration to the ultimate user.~~

~~(m) "Resident." A person, who resides in the State of Wyoming, and who is a legal citizen of the United States of America.~~

~~Section 5. Eligibility.~~

~~(a) Any Wyoming resident, regardless of age or income, may request a consultation.~~

~~Section 6. Client Application Process.~~

~~(a) A toll-free number, 888-792-0067 has been established for prospective clients to call with questions and to receive an application packet.~~

~~(b) A request by a prospective client may be made through the Wyoming Department of Health for a medication review and application, which will include:~~

~~(1) Client Inventory forms~~

~~(2) HIPAA forms.~~

~~Section 7. Consultation Process.~~

~~_____ (a) After the Department receives a completed client information packet, the Department will review the submitted information. Based on the submitted information, the Department will then make the determination if a consultation is warranted. The Department reserves the right to determine if the client is eligible.~~

~~_____ (b) The Department will refer the client information to a participating pharmacist.~~

~~_____ (c) The pharmacist will:~~

~~_____ (i) Review all client information provided by the client and, at a minimum, analyze it for possible drug interactions, therapeutic duplications, and possible cost saving alternatives.~~

~~(ii) Conduct a thorough consultation with the client, including a comprehensive interview of current health practices and an in-depth review of all medications.~~

~~(iii) Provide written recommendations to the client and health care team regarding the patient's current use of medications.~~

~~(iv) Refer qualifying clients to applicable drug manufacturer assistance programs.~~

~~_____ (v) Provide to the Department, in a timely manner, a copy of client recommendations, including estimated monthly medication cost savings. When possible, provide the Department with a summary of cost savings resulting from serious side effect or contraindication discoveries in the analysis.~~

~~_____ (vi) Obtain drug manufacturer patient assistance forms for clients when indicated.~~

~~_____ (vii) Assist the client in completing the patient assistance forms in order for client to transfer them to his/her prescribing provider for signature.~~

~~Section 8. Pharmacists.~~

~~(a) Must be licensed to practice Pharmacy in the State of Wyoming by the Wyoming Board of Pharmacy, and reside in Wyoming.~~

~~Section 9. HIPAA.~~

~~_____ (a) State of Wyoming, Department of Health, Notice of Privacy Practices will be enclosed with the Client Inventory form for the client to sign.~~

~~_____ (b) State of Wyoming, Department of Health, Acknowledgement of Receipt of Notice of Privacy Practices will be enclosed with the Client Inventory form for the client to sign.~~

~~Section 10. Fees.~~

~~(a) Pharmacists will be paid a fee per consultation. The fee is determined by the Office of Pharmacy Services and is based on the current market rate for Pharmacy consultations. The Pharmacist will be paid in the following manner:~~

~~(i) A portion of the fee will be paid by the Department.~~

~~_____ (ii) The client is responsible for five dollars (\$5.00) per consultation. The Wyoming Department of Health will make the determination of whether the client is able to pay. If \$5.00 is considered cost prohibitive, the department will waive this fee.~~

~~Section 11. Availability of Funds.~~

~~Each payment obligation of the Department is conditioned upon the availability of government funds which are appropriated or allocated for the payment of this obligation. If funds are not allocated and available for the continuance of the services performed by the Pharmacist, the contract may be terminated by the Department at the end of the period for which the funds are available. The Department shall notify the Pharmacist at the earliest possible time of the services which will or may be affected by a shortage of funds. No penalty shall be accrued to the Department in the event this provision is exercised, and the Department shall not be obligated or liable for any future payments due or for any damages as a result of termination under this section. This provision shall not be construed to permit the Department to terminate this Contract to acquire similar services from another party.~~

~~Section 12. Interpretation of Chapter.~~

~~(a) 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.~~

~~(b) Text of this Chapter shall control the titles of its various provisions.~~

~~Section 13. Superseding Effect.~~

~~When promulgated, this Chapter supersedes all prior rules or policy statements issued by the Department, including provider manuals and provider bulletins, which are inconsistent with this Chapter.~~

~~Section 14. Severability.~~

~~If any provision of these rules or the application thereof to any person, program, service, or circumstance is held invalid, the invalidity shall not affect other provisions or applications of these rules. To the extent that these rules can be given effect without the invalid provision, the provision of these rules are severable.~~