

BHD Conflict-free Case Management Model

Updated May 13, 2014

Background on the transition to Conflict-Free Case Management

As required in the Senate Enrolled Act 82, 2013, the Behavioral Health Division (Division) must transition the current case management system to a conflict-free case management system. In evaluating all of the options for making this change and with stakeholder involvement, **the Division has decided to keep case management in the waiver but move to conflict of interest free requirements starting July 1, 2014 and reaching full implementation by June 30, 2015.**

The Division will amend the Supports and Comprehensive Waivers to change the case management service to a conflict-free model during year two of the new waivers. The Division will allow participants, guardians and case managers to make decisions or adjustments, as necessary, during a one-year transition period. The waiver will identify the new provider qualifications for a provider or provider agency to become certified to offer the case management service. The Division will also change current regulations to prohibit any conflicts of interest and ensure choice of case manager and provider by participants.

Legislation

During Wyoming's 2014 legislative session, HEA 58 was enacted to clarify how Conflict Free Case Management would be implemented. That act is as follows:

(c) For purposes of implementing Medicaid reform pursuant to 2013 Wyoming Session Laws, Chapter 117, the department may apply for any applicable waivers or permissions to allow exceptions to federal conflict free case management definitions for frontier and rural areas, which to the extent consistent with federal law, shall implement a system using a neutral third party to ensure no conflicts exist. Consistent with federal law, the department may phase in the independent case management system. In negotiating a waiver pursuant to this subsection, the department shall, to the extent practicable and approved by the center for Medicare and Medicaid services:

(i) Allow an individual or agency to provide case management and direct services to discrete clients if the services are provided under conflict free circumstances;

(ii) When implementing updated case manager educational standards, provide for a three (3) year transition period and allow credit for prior case manager experience.

Timeline: The Division plans a start date of July 1, 2014 to allow participants to choose case managers from the conflict-free list of case managers available in their area. Transitions will be completed by June 30, 2015. For any gaps in case management services that a participant may experience due to a case manager or provider going out of business or giving termination notice, the Division will work with case managers to find solutions for participants using certified case managers if possible. If a person or area of the state cannot find a case manager available, the state will implement a backup plan to provide case management services until a case management agency is chosen.

July 1, 2014	December 31, 2014	July 2014 - June 2015	June 30, 2015
Case managers begin addressing conflicts of interest on caseload.	15 minute rate and unit are available starting July 1, 2014. All plans must be modified so that the new rate and unit is in effect January 1, 2015. The Monthly unit will be discontinued.	Participants transition to new case manager, if necessary, to ensure there is no conflict of interest. For any conflicts that still exist, a third party shall review and determine that there are no other available case managers to provide case management.	All case managers will be conflict free according to state and federal requirements. Any conflicts shall be under the third party review. All participants who were affected must have completed transitions

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CASE MANAGER and AGENCY QUALIFICATIONS

For the purposes identified in this guidance, the term “case management agency” shall include any individual certified to provide case management as a sole proprietor.

Services. An agency may provide:

- ✓ Case management services, including Family Care Coordination, for any of the home and community based waivers for which they are certified.
- ✓ Other waiver services to waiver participants, but shall not provide case management services to any participant that they are providing any other waiver services to, including self-directed services.

Qualifications. An agency which wants to be certified to provide case management services is required to:

- ✓ Submit a Division application to become certified. If a provider is already certified as a case management agency, they would still need to complete a form to comply with the new requirements and continue as a certified agency.
- ✓ Be enrolled as active Medicaid provider.
- ✓ No sub-contracting for case management will be allowed.
- ✓ Have policies and procedures for backup case management for each person’s caseload. Sole proprietors shall complete the BHD Surrogate Form prior to starting services. All case managers shall meet with their designated backup to review all participant cases on a quarterly basis. This review shall be documented in case notes.
- ✓ Have each case manager obtain proof of competency demonstrated through successful completion of the Division-approved case management training curriculum initially and annually.
- ✓ Ensure that criminal background checks are conducted for every person hired or associated with the certified case management agency, including monthly checks of each employee on the Office of Inspector General website. *Background checks may be transferred to the new agency if written and notarized permission is given by the person – pending final decision.*
- ✓ Meet education, experience, and training qualifications and exclusions as specified by the Division.
- ✓ Ensure ongoing compliance with applicable Medicaid Rules, Provider Manual, policies, bulletins, and guidance.
- ✓ Meet the conflict free requirements as identified on page five (5), “*How Do I Know If There is a Conflict of Interest.*” For any conflicts that are identified, a third party shall be involved to review and determine that there are no other available providers to provide case management.

RATE, UNITS AND BILLING REQUIREMENTS

New Rate (updated November 4, 2013)

- ✓ The proposed rate is \$10.90 per 15-minute unit which equates to \$43.60 per hour of billable time. (*see section on page 5 regarding the rate methodology*)
- ✓ The number of units on a plan may not exceed 296 units.
 - In cases of extraordinary need for case management, the Extraordinary Care Committee (ECC) may authorize a temporary increase above 296 units.
- ✓ Case managers may use units based on the need of the participant or guardian up to the approved amount.
- ✓ At least one (1) 15-minute unit per month will be required for all participants, so the case manager can keep in contact with the participant through a call or a personal visit to ensure the participant is satisfied with services and has no unmet needs or concerns.

Home Visit Requirements

- ✓ Monthly home visits are only required for a participant who receives any type of residential services, including residential habilitation, special family habilitation home, and supported living. The visit must be done in the home with the participant present.
- ✓ Quarterly home visits are required to non-residential participants and must be done in the home with the participant present. (Monthly home visits may still be completed).
- ✓ The case manager may complete additional home visits for times of crisis or other times when a participant might request or need more frequent home visits.

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Billable Time

- A billable unit of case management is any task or function defined by the Behavioral Health Division as a case management activity that only the case manager or case management agency can provide to or on behalf of the participant and guardian.
- Ancillary activities, such as clerical tasks like mailing, copying, filing, faxing, drive time or supervisory/administrative activities are not billable case management activities, although the administrative cost of these activities and other normal and customary business overhead costs have been included in the reimbursement rate for billable activities.
- Billable time may be cumulative during the span in which a provider bills.
- Billable case management services include:
 - ✓ Plan Development
 - ✓ Plan Monitoring/Follow-up
(Includes documentation review)
 - ✓ Service Observation
 - ✓ Home Visit
 - ✓ Team Meetings
 - ✓ Participant Specific Training
 - ✓ Face to Face Meeting with Participants, Guardian, Family
 - ✓ Advocacy and Referral
 - ✓ Crisis Intervention
 - ✓ Coordination of Natural Supports
 - ✓ Providing and Discussing Choice
 - ✓ Completing Monthly responsibilities,
 - ✓ Quarterly service observations and interviews, Division quarterly reports and other reports as required by the Division within the specified timeframe
 - ✓ Quarterly meetings with back-up/designated surrogate case manager

NOTES ON BILLABLE TIME:

- Time spent with the Participant or guardian for social reasons are not considered billable time unless billable case management time is also occurring. Incidental contact and social exchanges are part of conducting and building a business and offering customer service, and are not considered a case management service by the Centers for Medicaid and Medicare Services (CMS).
- Travel time is a part of the rate for the service and is not a billable service.

Although many case managers often provide more than two (2) hours of case management services per month, the monthly minimum has inadvertently led to many case manager routinely documenting only two (2) hours of the service provided during the month, instead of documenting all billable services. Documenting for phone calls, plan development, team meetings, and documentation review will often require more than 2 hours a month on top of service observations, home visits, and plan monitoring duties.

CASE MANAGER QUALIFICATIONS

A case manager must:

- Obtain an NPI number in their name and submit a Medicaid enrollment application to the BHD.
- Keep current CPR and First Aid Certification
- Have a clean background check on file with his/her agency
- Meet educational and work experience requirements as specified by the Division
- Complete training requirements as specified by the Division:
 - Within one month of working as a case manager, the case manager must complete all Division training modules and receive a passing grade of 85% or higher. Individuals may re-take modules until a passing grade is achieved, then a certificate of completion will be provided. The agency will keep copies of certificates in personnel files.
 - Eight (8) hours of annual training in areas specified by the Division will be required each year to re-certify. Individuals must keep certificates or confirmation of attendance and provide a copy for agency personnel files.

Items not required:

- Case management agencies will not need to be CARF accredited.
- Liability insurance or other organizational insurance needs will not be required by the Division. Each organization is encouraged to seek legal advice on any insurance decisions.

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Dual Employment

- A case manager may be linked to two (2) conflict-free case management agencies in different counties as long as their employment does not cause a conflict with participants served in either agency.

Education and experience requirements

Current case managers

Prior to July 1, 2014, current certified waiver case managers or case managers employed by an agency may be employed by a case management agency as long as the following minimum qualifications/criteria are met.

The case manager must have a:

- Associate's degree from an accredited college and four (4) years of work experience in a human services field;
or
- Minimum of 60 credit hours from an accredited college or university with a minimum of completed coursework of 24 semester hours or 36 quarter hours in one or a combination of human service field specialties as identified below in the next section, plus four (4) years of work experience in a human services field.

Verification. The case manager must submit official college transcripts to the Division, and include a professional contact who can confirm work experience.

If standards are not met. If a case manager cannot meet the minimum qualifications, the case manager must:

- Submit to the Division his/her official college transcripts;
- A letter describing years of full time experience;
- The name of a professional contact who can confirm work experience.
- The Division may accept experience working as a certified case manager on any of the waivers as an exception for not meeting the required credit hours. For any 5 years of waiver case management experience, this will equate to 6 hours of college credit.
- The case manager must show proof of enrollment in college coursework to fulfill the educational requirements within three years (36 months) from the first date of services to meet qualifications. Existing case managers have until July 1, 2017 (July 1, 2014 + 36 months).
- The Division will make final approval decisions from the information provided on an individual basis.

Future case managers (not currently certified or employed with an agency)

As of July 1, 2014, individuals must meet the following qualifications by having a:

- Bachelor's degree in one (1) of the following related fields from an accredited college or university and one (1) year work experience in one (1) of the following human services fields:

a) Counseling	d) Human Services	h) Social Work
b) Education (<i>will allow a school year instead of calendar year</i>)	e) Nursing	i) Sociology, or
c) Gerontology	f) Psychology	j) A related degree, as approved by the Division
	g) Rehabilitation	
- or*
- Master's degree from an accredited college or university in one of the related fields listed above,
or
- Associate's degree in a related field and four (4) years of work experience in a human services field.

Verification. Along with a case manager application, the individual must submit official college transcripts and include a professional contact who can confirm work experience.

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Definitions for the purposes of Conflict-Free Case Management policy:

- **Conflict of interest** includes a situation in which a person has a duty to more than one person or organization, but cannot do justice to the actual or potentially adverse interests of both parties. Retrieved from <http://dictionary.law.com/Default.aspx?selected=292>
- **Case Management Agency** means a business entity defined in Title 17 of Wyoming Statutes or a person operating as a sole proprietor, intending to or established to provide an activity that assists individuals to gain access to needed care and services appropriate to the needs of an individual.
- **Case Management** means (1) providing an interface or connection between individuals with disabilities and the system of publicly-funded and generic services and supports, and (2) assuring that these services meet reasonable standards of quality and lead to important outcomes for individuals.
- **Employ or employment** means that definition in the fair labor standards act resulting in an employer and employee relationship and does not include independent contractors or subcontracting relationships.
- **Managing employee** includes any administrative manager or a supervisor at an agency.
- **Relative** includes any biological or adoptive parent, stepparent, son, daughter, sibling, aunt, uncle, niece, nephew, grandparent, grandchild, first cousin, in-law, or step-family member.
- **Person**, for purposes of conflict of interest means a sole proprietor and also includes but not limited to partners, managing employees, relatives, CEOs, entities as defined in Title 17 of Wyoming statutes, or anyone having voting and ownership shares in corporations or other Title 17 entities.

How do you know if there is a conflict of interest?

Situations include, but are not limited to, the following:

- ✓ If I or my family can financially benefit from other services the participant receives
- ✓ If my agency can financially benefit from other services the participant receives
- ✓ If a participant's chosen provider may influence my ability to advocate or intervene in my role as a case manager because I am related to or employed by them
- ✓ If the participant and his/her family may influence my ability to advocate or intervene in my role as a case manager because I am related to or employed by them

If any of the above applies to a participant on your caseload, then you have a conflict of interest in providing case management to that participant.

Formal Exclusions

In order for a case manager to have the authority to develop, implement, and monitor plans of care in the best interests of the participant, the case manager must not have a conflict of interest. To address conflicts of interest, the Division is implementing the following exclusions for the case management agencies starting July 1, 2014.

1. The case management agency and any managing employee may not own, operate, be employed by, or have a financial interest or financial relationship in any entity listed in Title 17 of Wyoming Statutes, if the interest would meet the definition of conflict of interest. If the case management agency is a sole proprietorship, then that qualified case manager shall not have a financial interest or financial relationship in another sole proprietorship case management agency.
2. The case management agency may be certified in other waiver services, but shall not provide case management services to any participant that they are providing any other waiver services to, including self-directed services. For any existing conflicts, a third party shall be involved to review and determine that there are no other available providers to provide case management.

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3. The case manager or case management agency may not serve any participant that receives waiver services from a waiver provider if any of the provider’s owners, officers, or managing employees are related by blood or marriage to the case management agency and any managing employee of the case management agency.
4. Any employee of a guardianship agency may not provide case management to any participant who is receiving any services from the guardianship agency.
5. Also, a case management agency may not:
 - a) Employ case managers that are related to the participant, the participant’s guardian, and/or a legal representative served by the agency. Or if a sole proprietor, may not be related to the participant, the participant’s guardian, and/or a legal representative served by the agency.
 - b) Be authorized to make financial or health-related decisions on behalf of the participant receiving services from that agency, including but not limited to a guardian, representative payee, power of attorney, conservator or other position as defined by the Division;
 - c) Employ case managers, or if a sole proprietor, live in the same residence as the participant in which they provide case management services, nor live in the same residence of any provider on a participant’s plan in which they provide case management service;
 - d) Be an approved provider or employee hired through self-directed services.

RATE METHODOLOGY

New Rate as of November 4, 2013 with methodology

\$16.61	= Direct Care Hourly Wage Rate (2007 cost survey)
6	X Expected hours per case per month (reduced due to input received)
1.15	X FTE (Includes 40 days for vacation, sick, holiday, and annual training)
1.2849	X Benefits factor
1.2	X Travel Time factor (increased travel 20% due to office location and duty changes)
\$176.71	= Direct Care cost per unit per month
\$52.30	+ Administrative Costs (based on 2007 study +30% increase for additional training costs)
\$42.59	+ Program Support (based on 2007 study)
\$3.73	+ Non-Program Contracted Services (based on 2007 study)
\$275.33	= Estimated Service Cost per unit per month (based on 2007 rate methodology)
\$261.68	= total with both 4% and 1% legislative reductions applied to all service rates
\$43.61	= Hourly (based on 6 hours of service provided)
\$10.90	= 15 minute unit (Rate and unit available starting July 1, 2014 with all plans being modified no later than January 1, 2015 to update both the rate and unit)
\$3,226.40	= annual limit per participant (based on a limit of 296 units annually) (296*\$10.90)

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The state used the 2007 cost study conducted by Navigant Consulting (published in 2008) that had information available on case management costs based on 57 respondents. Advice received in the past year during the redesign from national consultants led BHD to re-evaluate our payment for case management services. The current model allows some participants to receive more case management services as needed and other to receive less -- depending on the stability of services, living situation, progress on goals, etc.

The 15 minute rate is structured to pay case managers based upon a fluctuating need by participants and to have adequate documentation for all of the a case management services provided in a month, not just two hour's worth. The former proposed rate for a 15 minute unit was determined using the information and methodology developed by Navigant Consulting in 2007. All current rates are figured based on this study and reduced as mandated by the legislature, 4% in FY11 and 1% in FY14. This rate reflects the same cost study used for other waiver service rates. A new cost study was conducted in 2010 but the legislature did not support implementing the rebased rates from that study. The new \$10.90/15 minute unit rate figures 6 hours of work on average per participant a month, increases travel time factor by 20%, increases administrative costs by 30% for increased certification and training requirements.

The newly proposed rate offers approximately the same reimbursement as the current rate, if the full hours of service are delivered. The efficiency is that the state is only paying for the service provided. If a case manager provides approximately 6 hours of service a month, over the year, the wages would be approximately the same as they are today. Billable services include reviewing provider documentation and objective progress summaries. All participants will have available the same amount of funding for case management that they do now. This funding amount can only be used for case management services and cannot be used to increase units to any other services on a participant's plan.

How was the current monthly rate of \$268.86 for case management figured?

In 2008, the Navigant cost study survey for case management showed 8.7 to 10.5 hours a month were spent on average to provide services to each participant, with some months requiring more hours than others. The monthly rate was built to cover all of the fluctuating time, with a minimum amount required in order to bill. Therefore, the monthly rate was not based on two (2) hours of service a month alone, which would figure over \$134 an hour. Instead, the rate assumed around eight hours on average. The minimum of 2 hours was established from a previous stakeholder work group. The consultants also compared wages paid to case managers and wages for similar positions within Department of Labor information available. The wages for 8 hours of work at the monthly unit was comparable for a position that was unlicensed and did not require a Bachelor's.

Information on rate development from CMS

CMS requires the State to justify its payment based on cost incurred to provide the service. For each of the cost components recognized as eligible for reimbursement, we will have to have data to support the proposed payment.

- **Information from CMS on developing appropriate payments for case management:**

We will use the rate recommended by case managers of \$16/15 minute unit and use CMS' logic for testing the rate. For a fee schedule reimbursement of approximately \$16 for each 15 minute unit of service, annualized in the following manner--\$16 per fifteen minute unit X 4 units per hour X 2080 working hours in a year, the rate results in approximately \$133,120 of reimbursement for a full-time case management position. This scenario raises concerns that this annualized amount appears to exceed the reasonable cost of providing case management.

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- **Illustration of the current monthly rate if case management only covered 2 hours of work per participant a month (which has been mentioned by several case managers):**

If the payment of \$268.86 a month was only meant for two hours of case management, then we are paying \$134.43/hour for case management. If the state only expected two hours of billable services to be provided during a month per client, then a case manager with 20 people on their caseload is getting paid \$5377.20/month for 40 hours of work in one month (not a week). For a year, the state would be paying \$64,526.40/year for 12 weeks of full-time work over one year. If a case manager is just working part-time with 10 cases, they would make \$32,263.20 a year for 6 weeks of full-time work over one year. \$32,000 is a high paying part-time job, but not realistic for 6 weeks of documented work.

NOTE: As stated in the first section, the state consulted with case managers on the number of hours they spend on each case per month to develop the current rate. The average time was about 8 hours a month.

- **In developing an economic and efficient rate for case management services, CMS currently recognizes the following types of cost:**

- (1) Salary cost of direct practitioners by type of practitioner (not supervisors or support staff) by FTE adjusted for other sources of funding such as Federal and State grants.
- (2) Some fringe benefits such as employer cost of health insurance, Medicare and Social Security contributions. The State must show the actual cost for each type of benefit proposed for inclusion in the rate.
- (3) Indirect costs – CMS has accepted an indirect cost component of 10%.
- (4) A reallocation of general and administrative costs
- (5) The State must assure that billed time does not exceed available productive time by practitioner to deliver the targeted case management services and must specifically identify billing limits in the SPA.

Why isn't the rate similar to support brokerage, therapists, or other services?

For services that are very limited with intensive training requirements, the rate is commensurate with the service provided, such as individual habilitation training and support brokerage. Support brokerage is a limited service with more 1:1 training with participants and families required and the service usually faded out over time. Case management is a steady service that is not phased out and does not require as much of the 1:1 training and hands on work that the other services provide. Much of the case management work is conducted in an office, by phone and computer.

Other waivers in Wyoming pay less for case management and require licensed personnel, with the exception of Family Care Coordination (FCC). Family Care Coordination is a short term service and a short term waiver for participants and the FCC role requires more training, certification, and crisis management, which contribute to the higher rate.

Many people commented that case management rates should equal those of therapists. Rates for therapists are based on their educational and licensure requirements. They also have many expenses for therapeutic equipment that are not shared by case managers. Case managers are not required to have a Master's and a current license. The requirements for case managers in the new conflict free model do not even require a Bachelor's for current case managers. Using the rate for therapists to base a rate for case management does not work. Many case managers in other states are required to be a licensed social worker or registered nurse to provide the service. When we have tried to raise the education standard to a Bachelor's in Wyoming, the resistance was large enough for us to consider Associate's degrees in order to retain our current workforce as much as possible.

What are the concerns with the current (conflicted) case management system?

The current case management system has shown to not advocate as strongly as desired for participants' rights, largely due to conflict of interest situations.

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One form of this has been noted in some case managers having to negatively assess the performance of their co-workers, supervisors and leadership, even though, in the current system, case managers do not have the position or degree of authority within the organization to require changes of other staff. Due to this, on a personal level, case managers may find themselves reluctant to criticize co-workers. It is understandable that self-policing puts case managers in a very difficult position.

Further, it has been found that on occasion, in conflicted situations, conscious or unconscious service “steering” of a participant has taken place. This diminishes the ability to trust that participants are receiving the types of services and supports they personally want and need.

There is also a potential for conflict of interest from the fiduciary aspect through the:

- Incentives for either over- or under-utilization of services;
- Participant either “costing too much” or provider “not being paid enough”;
- Potential of pressure or interest in “steering” the individual to their own organization; and
- Potential pressure for retaining the individual as a client rather than promoting choice, independence and requested or needed service changes.

What are the benefits of changing the system to conflict-free?

By moving to the conflict-free case management system, a case manager’s core responsibility becomes assuring that what is *important to and for* a participant is addressed based on the individual's preferences, and desired outcomes. Case managers will have more authority to truly advocate for participants and participants will be given true choice in services and providers.

Participants are not meant to fit into a system, rather case managers shall find a fit between individual participant’s needs and preferences and support and service responses. This in turn will allow for a source of knowledgeable and thoughtful strategies to help participants.

Additionally, the Division will be able to monitor service quality, progress, and participant satisfaction alongside case managers. All parties will see caseload sizes and reimbursement rates that match the scope of responsibility and take into account the varying amount of support individuals need. Documentation of all services provided, billed, and expected will lead to better follow through and verification that the role of the case manager has been achieved for the person served.