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Governor Dave Freudenthal

MEMORANDUM

DATE: October 14, 2010

TO: All DDD Home and Community Based Waiver Providers

FROM: Chris Newman, Administrator, Developmental Disabilities Division

SUBJECT: IBA Adjustments and revised ECC policy and procedures

REF: 10-134-CN

This memorandum clarifies the conditions and process in which a participant's Individual Budgeted Amount (IBA) may be adjusted by the Developmental Disabilities Division (Division). This memorandum also includes a revised Extraordinary Care Committee policy and review procedure. If the IBA methodology, IBA adjustment process, or ECC process changes, then the Division shall notify providers and waiver participants through an official memorandum or as individual budgets are revised.

Training on the new process outlined in this memorandum shall be held on November 18, 2010 at 1 pm via a webinar and conference call. Information on the webinar link and phone number for the training will be distributed two weeks prior to the meeting, but please save the date and time if you are interested in attending. The new forms are available for use as of today but will be required as of December 1, 2010.

Allowable IBA Adjustments

A participant's Individual Budgeted Amount (IBA) shall not change **unless there is a significant change in service and support needs for the participant.** Requests to adjust a person's IBA shall be carefully reviewed by the Division and requires supporting evidence of the change in condition or need in order to review the request.

The Division may adjust a participant's IBA for any one of the following reasons:

- 1. Increased supports or services are needed for a participant due to one of the following:
 - a. The onset of a critical medical or mental health condition occurred.
 - b. A transition occurred beyond the person's control resulting in the reduction or loss of nonwaiver supports and services in the last year
 - c. The services and units used in the last Division IBA adjustment reflected an understated plan of care due to the lack of access, availability, or use of other waiver services and the participant now has the need for more waiver services as specified in the current plan of care
- 2. A subsequent assessment for a psychological evaluation is required for continued waiver eligibility, not to exceed \$1000.

- 3. A significant change occurred in the person's functional abilities, verifiable through the ICAP or another approved assessment.
- 4. Waiver services are reduced by the participant's team.
- 5. Additional units above a service cap are needed to assure a participant's health and safety.
- 6. A participant is self-directing services and needs an IBA increase for Support Brokerage Services and/or the Agency with Choice per member per month fee to meet Division requirements for self-directing. In the event these services are not needed on the plan due to a modification or transition in service delivery, the funds allocated for Support Brokerage and/or Agency with Choice shall be removed from the IBA.
- 7. A participant has a need for specialized equipment or an environmental modification in accordance with Wyoming Medicaid Rules, Chapter 44.
- 8. Other additional funding requests reviewed by the Extraordinary Care Committee and out of home placement requests.

Requests for an IBA Adjustment

If it is determined that a participant needs an IBA adjustment, the Case Manager may submit an *IBA Adjustment Request* form (see figure on next page) in conjunction with the Pre-approval form (when modification requests exceed the existing IBA), if the participant's situation meets the criteria listed in the Allowable IBA Adjustments section of this policy. The form is on the Case Management web page of the Division's website. NOTE: The form is <u>not</u> required for required subsequent assessments, Support Brokerage services, and Agency with Choice services in accordance with the Division's policy on these services.

Only complete requests shall be reviewed, which includes having supporting documentation for the services, units, or items requested on *the IBA Adjustment Request* form. The Division shall have 15 business days to review and decide on an IBA Adjustment Request.

Overview of the IBA Adjustment Process

Participant needs an IBA increase

Case Manager submits an IBA Adjustment request and supporting evidence for need



Participant Support Specialist reviews request

Works with Case Manager to complete request and reviews request with Division Manager



Division Manager makes decision to either:

Approve the request, or

Refer request to ECC



ECC reviews case and:

The PSS works with the Case Manager for additional information as needed during the review.

Makes a decision and Division Administrator reviews ECC decision

View of IBA Adjustment Request Form (replaces ECC Request Form)

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	Budgeted Amount djustment Request	Pnone (307) ///-/115
Participant Name:	Age: Date Submitt	ted: DDD Staff:
Case Manager:	Waiver: Adult ABI	Child Med ID#:
REQUEST INFORMATION		
The Case Manager, in conjunction with the team members, shall provide justification for each service requested. The questions below shall be completed to give background information on the person's case and provide supporting information for the request. The Division may request more information, additional documentation, or information from other team members to support a request before it is reviewed by the Division. Upon completion of this request, submit this form and supporting documentation to the Participant Support Specialist for initial review. The pre-approval form should also be submitted at this time. Signatures are not necessary until the request has been approved.		
Note: This form is <u>not required</u> for required subsequent assessments or the addition of Support Brokerage services or Agency with Choice services to the plan in accordance with the amount specified by Division policy as issued through the memorandum dated October 7, 2010.		
For all IBA Adjustment requests, answer questions 1 through 4.		
 Specify the exact request. Then describe the reason for the IBA adjustment as specified in the Division's policy. Include factors or conditions that necessitate this request for additional funding. 		
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IBA Adjustment Decisions

The Division has the authority to approve, modify, or deny an IBA adjustment request. A decision on an IBA adjustment request shall result in one of the following actions:

- An approved IBA adjustment, as determined by the Division, or
- A lesser dollar amount approved than requested, as determined by the Division, or
- A denial of an IBA adjustment by the Division due to criteria not being met or budgetary limitations, or
- A referral to the Extraordinary Care Committee (ECC) for review, if it meets the ECC criteria.

Allowable ECC Requests

The Extraordinary Care Committee (ECC) shall have the authority to approve, modify, deny or provide consultation on a submitted funding request for any person deemed eligible for a waiver operated by the Developmental Disabilities Division meeting one of the following criteria:

- An emergency case involves an eligible person that calls for immediate action or an urgent need for waiver services, including physical care and supervision in an environment necessary to maintain the person's vital functions, and without the provision of waiver services the person would suffer irreparable harm or death.
- An out-of-home placement request for an eligible person not receiving 24-hour residential services, whose health and/or safety is at significant risk due to extraordinary needs that cannot be met in the current living arrangement because of one of following targeting criteria:

- A substantial threat to a person's life or health caused by homelessness or abuse, neglect, or exploitation.
- The person's condition poses a substantial threat to a person's life or health.
- A person has caused serious physical harm to him or herself or someone else in the home.
- There are significant and frequently occurring behavior challenges resulting in danger to the person's health and safety, or the health and safety of others in the home.
- The person's critical medical condition requires ongoing 24-hour support and supervision to maintain the person's health and safety.
- A loss of primary caregiver due to caregiver's death, incapacitation, critical medical condition, or inability to provide continuous care.

A material change in the participant's circumstances resulting in a significant change in the level of need for waiver services exceeding the Case Review threshold as outlined in the *Individual Budgeted Amount* section or any case referred by the Participant Support Manager for evaluation and consultation.

Definitions

The following definitions are used by the Division as pertinent to the situations reviewed for ECC.

Emergency Case

A situation involving an eligible person that calls for immediate action or an urgent need for waiver services, including physical care and supervision in the least restrictive and most appropriate environment necessary to maintain the person's vital functions, and without the provision of waiver services the person would suffer irreparable harm or death.

Primary Caregiver

A caregiver is defined as any person, agency or other entity responsible for the care, both physical and supervisory, of a person because of:

- A family relationship;
- Voluntary assumption of responsibility for care;
- Court ordered responsibility or placement;
- Rendering services in a residential program;
- Rendering services in an institution or in a community-based program; or
- Acceptance of a legal obligation or responsibility of care to the person.

Homelessness

A situation where a person lacks access to an adequate residence with appropriate resources to meet his/her support and supervision needs, and without such support, there is evidence of serious harm to the person's life or health.

ECC Case Review and Verification

All requests shall be accompanied with evidence of the person's emergency situation from a professional or other agency **documenting irreparable harm.** The Division may consult with Medicaid or other agencies to verify the extent of the risk and ensure there are no other supports available. Evidence shall be reviewed by the ECC to verify the situation.

The case manager shall provide evidence as specified by the Division, which may include but is not limited to the following:

• Written statements from the Department of Family Services, Protection & Advocacy Systems, Inc., or law enforcement, which supports the emergency case and includes specific incidents, witnesses, follow-up conducted, and any documented accounts of events by witnesses.

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- Information and a summary of incident reports specific to the type of condition or injury.
- Documentation of other approaches or supports that have been attempted.
- Names of other agencies/parties/providers involved and dates of contact, assistance, or involvement.
- Written statements from a physician or psychologist explaining why, without emergency services from the waiver, the person's life or health is in imminent jeopardy.
- Written statements from a physician or medical professional explaining the changes in this
 person's situation that results in the caregiver and other supports no longer meeting this person's
 needs.
- Written statements from a professional in the medical field, the Department of Family Services, or a professional from the mental health field, which explains why the caregiver can no longer provide care.
- Evidence that the person does not qualify for any other emergency funding or emergency services that would alleviate the emergency situation.
- Evidence that a temporary residence or shelter is insufficient to meet the person's immediate health and safety needs and the individual's situation requires a long term solution.
- Evidence that other community services, including other Medicaid waiver programs, are not available.
- Other verifiable documents or sources of information to demonstrate support for the proposed needs and suggested resolution process.

Division Process for the Initial Review of ECC Requests

If a participant meets a condition in the ECC criteria, then the IBA Adjustment Request shall be reviewed by the Participant Support Specialist and Manager before scheduling an ECC review. Requests shall be submitted using the Division's IBA Adjustment Request form, available on the Division's website. Only complete request packets, which include the form and supporting documentation for the request, shall be reviewed by the ECC.

All needed information for the request shall be submitted to the Division at least two days prior to the scheduled ECC review meeting. The ECC packet may need any of the following as determined by the Division:

- A completed IBA Adjustment Request form
- Supporting documentation, such as behavioral data, trend analysis, recommendation letter from a medical professional, or other item to verify the emergency situation
- Assessments (ICAP, Psychological, etc.)
- Out of Home placement documentation and request, if applicable
- Notes regarding inconsistent or new information in the submitted request, regarding increased supervision levels or new services

The Participant Support Specialist shall work with the case manager until the request is complete and scheduled for review or until it is determined that it does not meet ECC criteria. If the request is not allowed to be reviewed by ECC, the participant may file a request for reconsideration. If reconsideration results in a denial, the participant shall be notified of the right to request a hearing

from the Wyoming Department of Health, Developmental Disabilities Division. Wyoming Medicaid Rules offer more clarification on this process.

Case Manager Responsibilities in Making a Request to ECC

To process and review an ECC request, the Case Manager shall gather all pertinent information from providers, psychologists, family members, or other contributors for the ECC request. If the ECC is part of an annual plan of care submission, then the request shall be received in the Division 40 calendar days prior to the plan start date. For requests during the plan year, the ECC request form shall be submitted with all of the requested information to Division staff at least two business days prior to the ECC date. The Case Manager may request, on behalf of the participant, to have a psychologist or other professional offer an expert opinion during the ECC meeting. The Case Manager shall represent the participant at the ECC meeting, via phone, in person, or in writing and have the participant's full case file available to reference depending on the questions raised by committee members. If the Case Manager requests attendance from other team members, the Division shall approve the attendance of the person or professional at least 24 hours before the meeting. The Participant Support Specialist may discuss the request with the Case Manager to help prepare the Case Manager for questions that may be asked by the committee.

Possible Outcomes of ECC requests

The request may be approved at the requested amount (either permanently or temporarily); approved at a lesser dollar amount than requested; denied; or tabled until more information on the request is received. Additional consultation or recommendation with any decision may be made by the ECC and shared with the case manager during the case review or through notification following the case review. If an ECC case is tabled, the request will be returned to the ECC for review and a vote within ten (10) working days upon receipt of all additional requested information.

Notification of Decision, Request for Reconsideration and Fair Hearing Process

Division staff shall inform the Case Manager of any IBA adjustment request decision, and also notify the participant/guardian of ECC decisions, by letter within ten business days of the decision. The Division may request progress reports, additional plan of care information, specific timelines for changes, or implement a monitoring plan as part of any IBA adjustment decision.

For any decision resulting in an adverse action, the Division shall provide written notification of the decision, the reason for the decision, and offer the participant the opportunity to request reconsideration and/or a fair hearing from the Division Administrator within 30 business days after notice of the decision is given. The request for reconsideration does not affect the availability of a fair hearing. The timeframes for requesting a fair hearing are paused during such time as the Division receives a request for reconsideration. The Administrator shall review the reconsideration request or the hearing request within 20 business days of receipt.