



Notice of Intent to Adopt Rules

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

Revised August 2023

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		
Amended Program Name (if applicable):		
* <input type="checkbox"/> 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 non-emergency 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 non-emergency regular rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

<input type="checkbox"/> No. <input type="checkbox"/> Yes. If the rules are new, please provide the Legislative Chapter Number and Year Enacted:	Chapter:	Year:
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3. Rule Type and Information For purposes of this Section 3, "New" means an emergency or regular rule that has never been previously created.

a. Provide the Chapter Number, Title and Proposed Action for Each Chapter. Please use the "Additional Rule Information" form to identify additional rule chapters.

Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name (if applicable):		
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 Repealed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 Repealed
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Amended Chapter Name (if applicable):		
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name (if applicable):		
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name (if applicable):		

4. Public Comments and Hearing Information

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

Date:	Time:	City:	Location:

b. What is the manner in which interested persons may present their views on the rulemaking action?

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

☐ At the following URL: _____

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

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

☐ At the following URL: _____

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

5. Federal Law Requirements

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

Applicable Federal Law or Regulation Citation:	
Indicate one (1):	<input type="checkbox"/> The proposed rules meet, but do not exceed, minimum federal requirements. <input type="checkbox"/> 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:	<input type="checkbox"/> To the Agency at the physical and/or email address listed in Section 1 above. <input type="checkbox"/> 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. ☐ The Agency has completed a takings assessment as required by 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: _____

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.

Printed Name of Authorized Individual

Title of Authorized Individual

Date of Authorization

Rules and Regulations for Wyoming Department of Health, Division of Healthcare Financing,
Medicaid

CHAPTER 13 – BEHAVIORAL HEALTH SERVICES

Intent to Amend Rule

Statement of Reasons

The Wyoming Department of Health proposes to adopt the following Amended Rule pursuant to its statutory authority in Wyoming Statutes §§ 42-4-101 through -124.

Chapter 13 establishes the scope of behavioral health services, such as mental health and substance use treatment services covered by Medicaid.

Chapter 13 is amended in accordance with Wyoming Statute § 42-4-124 to provide payment for Clubhouse Rehabilitation Services. Additionally, for consistency with other Medicaid rules, the term “reimbursement” is replaced with “payment”.

The amendments include (a) additional definitions related to the assessment of adults impacted by a serious mental illness and interventions; (b) the procedure to become a Clubhouse member; (c) the requirements for assessment and providing services; and (d) a nonexclusive list of Clubhouse services.

As required by Wyoming Statute § 16-3-103(a)(i)(G), this proposed change meets minimum substantive state statutory requirements.

CHAPTER 13

Behavioral Health Services

Section 1. Authority. The Wyoming Department of Health (Department) promulgates this Chapter pursuant to the Wyoming Medical Assistance and Services Act at Wyoming Statutes §§ 42-4-101 through -124.

Section 2. Purpose and Applicability.

(a) The Department adopts this Chapter to establish the scope of behavioral health services, such as mental health and substance use treatment services, covered by Medicaid and provided by certified community mental health centers, substance abuse treatment centers, and specific licensed providers. This Chapter also includes the payment and submission of claims by providers of such services.

(b) This Chapter applies to all clients and providers for all furnished Medicaid behavioral health services.

(c) The Department may issue manuals and bulletins to interpret this Chapter. Such manuals and bulletins shall be consistent with and reflect the rules contained in this Chapter. The provisions contained in manuals or bulletins shall be subordinate to this Chapter.

Section 3. Definitions.

(a) Except as otherwise specified in Wyoming Medicaid Rules Chapter 1, or as defined herein, the terminology used in this Chapter is the standard terminology and has the standard meaning used in behavioral health care, Medicaid, and Medicare.

(b) “Applied Behavior Analysis (ABA) Treatment” means behavior analysis services provided to children between the ages of 0-20 years of age with a diagnosis of Autism Spectrum Disorder in order to improve social, communication, and learning skills.

(c) “Behavior analysis” means the design, implementation and evaluation of the instructional and environmental modifications based on scientific research and direct and indirect observation and measurement of behavior and environment to produce socially significant improvements in human behavior. It includes the empirical identification of functional relations between behavior and environmental factors. It does not include psychotherapy, cognitive therapy, psychoanalysis, hypnotherapy, counseling, psychological testing, personality or intellectual or neuropsychological assessments, or the diagnosis of psychological disorders.

(d) “Certified center” means a community mental health or substance abuse treatment center that is certified by the Wyoming Department of Health, Behavioral Health Division.

(e) “Clinical Professional” means an individual who is licensed as a:

(i) Licensed Addictions Therapist;

(ii) Licensed Advanced Practitioner of Nursing with a specialty area of psychiatric/mental health (APRN);

(iii) Licensed Clinical Social Worker;

(iv) Licensed Marriage and Family Therapist;

(v) Licensed Physician;

(vi) Licensed Professional Counselor;

(vii) Licensed Psychiatric Nurse (Master level);

(viii) Licensed Psychologist;

(ix) Licensed Board Certified Behavior Analyst – Doctoral (BCBA-D), as defined by the Behavior Analyst Certification Board and the Wyoming Board of Psychology (Wyo. Stat. §§ 33-27-124 and 33-27-125); or

(x) Licensed Board Certified Behavior Analyst (BCBA), as defined by the Behavior Analyst Certification Board and the Wyoming Board of Psychology (Wyo. Stat. §§ 33-27-124 and 33-27-125).

(f) “Clinical staff” means an individual who is a:

(i) Case Manager, who has achieved a bachelor’s degree in a human relations discipline, is trained in case management, and who is working under the documented and scheduled supervision of a licensed mental health professional;

(ii) Certified Addictions Practitioner (CAP), who is certified by the Mental Health Professions Licensing Board pursuant to the Wyoming Mental Health Professions Practice Act (Wyo. Stat. §§ 33-38-101 through -113) to practice under the supervision of a licensed and qualified clinical supervisor;

(iii) Certified Addictions Practitioner Assistant (CAPA), who is certified by the Wyoming Mental Health Professions Licensing Board or similar authority in another State to practice under the supervision of a licensed and qualified clinical supervisor;

(iv) Certified Mental Health Worker (CMHW), who has achieved a bachelor’s degree in a human relations discipline as specified in the Wyoming Mental Health Professions Licensing Board, Chapter 5-Certified Mental Health Worker and who is working under the documented, scheduled supervision of a licensed mental health professional;

(v) Certified Peer Specialist (CPS), who has a minimum general equivalency diploma (GED) or high school diploma; meets the criteria and supervision requirements of a Mental Health Technician; is certified by the Division of Behavioral Health as a peer specialist;

and is working under the documented, scheduled supervision of a licensed mental health professional;

(vi) Certified Social Worker (CSW) or a Certified Mental Health Worker (CMHW), who is certified by the Wyoming Mental Health Professions Licensing Board or similar authority in another State to practice under the supervision of a qualified clinical supervisor licensed in the state of Wyoming;

(vii) Licensed Board Certified Assistant Behavior Analyst (BCaBA), as defined by the Behavior Analyst Certification Board and the Wyoming Board of Psychology (Wyo. Stat. §§ 33-27-124 and 33-27-125);

(viii) Licensed Practical Nurse (LPN), who is performing nursing duties within the scope of practice as defined by the Wyoming Board of Nursing Rules, Chapter 3-Standards of Nursing Practice;

(ix) Mental Health Technician (MHT), who has at minimum a GED or high school diploma, and who is working under the documented, scheduled supervision of a licensed mental health professional;

(x) Provisional Licensee, who is provisionally licensed by the Wyoming Mental Health Professions Licensing Board or similar authority in another state to practice under the supervision of a licensed and qualified clinical supervisor. This includes student interns who meet the qualifications required by their respective Board and are practicing and billing under the direct supervision of a licensed and designated qualified clinical supervisor;

(xi) Registered Behavior Technician (RBT), who has at minimum a GED or high school diploma, is registered with the Behavior Analyst Certification Board and is a paraprofessional in behavior analysis who practices under the close, ongoing supervision of a licensed BCBA or licensed BCaBA and who delivers services that may be assigned to an RBT but shall not include designing assessment or intervention plans or procedures; or

(xii) Registered Nurse (RN) who is performing nursing duties within the scope of practice as defined by the Wyoming Board of Nursing Rules, Chapter 3-Standards of Nursing Practice;

(g) “Clubhouse” is a program defined by Wyo. Stat. § 42-4-124(d).

(h) “Clubhouse Rehabilitation Services” is a term defined by Wyo. Stat. § 42-4-124(d).

(i) “Collateral contact” means an individual involved in the client’s care. This individual may be a family member, guardian, healthcare professional, or person who is a knowledgeable source of information about the client’s situation and serves to support or corroborate information provided by the client. The individual contributes a direct and exclusive benefit for the covered client.

(j) “DLA-20” means a tool designed to reliably assess twenty areas of daily living activity functioning for adults impacted by a mental illness or disability.

(k) “Evidence-based intervention” means intervention that:

(i) Shows statistically significant effectiveness through empirical research in treating specific problems and populations;

(ii) Is consistent with relevant clinical expertise; and

(iii) Considers client preferences and values.

(l) “Evidence-informed intervention” means programs and practices that use the best available research and practice knowledge to guide their design and implementation.

(m) “Habilitative services” means services that help clients keep, learn, or improve skills and functioning for daily living. Examples include therapy for a child who is not walking or talking at the expected age.

(n) “Independent Assessor” means an assessor certified by the Department who:

(i) Has completed DLA-20 assessment training and passed the Department’s DLA-20 proficiency exam;

(ii) Is current with all continuing certification requirements;

(iii) Does not have any financial tie to a clubhouse provider; and

(iv) At a minimum has obtained a GED and has two years of lived experience, or a bachelor’s degree in a human service-related field.

(o) “Member” means a client receiving Clubhouse Rehabilitation Services.

(p) “Rehabilitative services” means services that help clients keep, get back, or improve skills and functioning for daily living that have been lost or impaired due to the client’s illness, injury, or acquired disability.

(q) “Serious mental illness (SMI)” means a long-term illness involving substantial functional impairment over multiple symptom domains. These impairments often lead to an inability to maintain gainful employment, poor social support, repeated psychiatric hospitalizations, homelessness, incarceration, and coexisting substance use disorders. Possible diagnoses include psychotic disorders, bipolar disorder, major depression with psychotic symptoms and treatment-resistant depression. SMI can also include anxiety disorders, eating disorders, and personality disorders if the degree of functional impairment is severe.

Section 4. Provider Participation.

(a) No certified center, licensed psychologist, licensed APRN, licensed mental health professional, licensed behavioral analyst or clubhouse that furnishes services to a client shall receive Medicaid payment unless enrolled with Medicaid.

(b) A certified center, licensed psychologist, licensed APRN, licensed mental health professional, or licensed behavioral analyst that wishes to receive Medicaid payment for services furnished to a client shall meet the provider participation requirements of Medicaid Rules Chapter 3.

Section 5. Special Requirements for Certified Center Services.

(a) To receive Medicaid payment a certified center shall:

(i) Meet Medicaid enrollment requirements pursuant to Medicaid Rules Chapter 3; and

(ii) Be certified by and under contract with the Behavioral Health Division for taxonomies to access both Medicaid and Behavioral Health Center benefit plans.

(A) If a provider's contract with the Behavioral Health Division terminates, as of the date of termination, the provider will only have access to taxonomies for certified centers and can only bill Medicaid benefit plans.

(B) If a provider is not under contract with the Behavioral Health Division, the provider is not considered a behavioral health center as used in this Section.

(b) Each member of a certified center's staff who provides case management services shall:

(i) Be enrolled as a Medicaid provider pursuant to Medicaid Rules Chapter 3;

(ii) Be employed by, or under contract with, a certified center to provide case management services;

(iii) Be a clinical professional or clinical staff member.

(c) Each member of a certified center's staff who provides Individual Rehabilitative Services (IRS) shall:

(i) Be enrolled as a Medicaid provider pursuant to Medicaid Rules Chapter 3;

(ii) Be eighteen (18) years of age or older;

(iii) Have, at minimum, a GED or a high school diploma;

(iv) Be employed by, or under contract with, a certified center to provide IRS

services;

(v) Complete a basic training program which includes non-violent behavior management; and

(vi) Be supervised by the client's primary therapist as evidenced by co-signature of the primary therapist on each IRS progress note.

(d) Each member of a certified center's staff who provides mental health or substance use services shall:

(i) Be employed by, or under contract with, a certified center; and

(ii) Be a clinical professional or clinical staff member who meets the requirements of the specific service and who practices within the scope of their license or certification.

Section 6. Covered Services.

(a) Covered services shall be:

(i) Furnished to a client or collateral contact for the direct and exclusive benefit of the client;

(ii) Furnished by a clinical professional or clinical staff member who meets the requirements of the specific service and who practices within the scope of their license or certification;

(iii) Furnished pursuant to a treatment plan, updated and signed by a clinical professional at least every ninety (90) days. Unless the service is an initial clinical assessment, the treatment plan shall list the type, frequency, and duration of each service provided;

(iv) Documented by providing a legible progress note in the client's medical record. Each progress note shall contain a hand-written or electronic signature and credentials of the provider and shall specify:

(A) Service type and setting (if outside of the office);

(B) Begin and end times (Military or Standard Time); and

(C) Client progress towards goals identified in their current treatment plan; and

(v) Rehabilitative and medically necessary.

(b) The following are covered services when furnished by a certified center:

- (i) Clinical assessments;
- (ii) Office-based individual and family therapy;
- (iii) Community-based individual and family therapy;
- (iv) Psychosocial rehabilitation (day treatment);
- (v) Intensive outpatient program (IOP);
- (vi) Group therapy;
- (vii) Comprehensive medication services;
- (viii) Individual rehabilitative services (IRS);
- (ix) Certified peer specialist services;
- (x) Targeted case management provided to clients twenty-one (21) years of age and older; and
- (xi) Ongoing case management provided to clients under twenty-one (21) years of age.

(c) The following are covered services when furnished by a licensed psychologist, licensed APRN, or licensed mental health professional:

- (i) Clinical assessment;
- (ii) Office-based individual and family therapy services;
- (iii) Community-based individual and family therapy;
- (iv) Group therapy;
- (v) Ongoing case management services provided to clients under twenty-one (21) years of age; and
- (vi) Additional services as specified in Medicaid policy manuals and provider bulletins. These services provided by licensed psychologists or licensed APRNs may include psychological testing, psychotherapy, and evaluation and management services.

(d) The following are covered services when furnished by an enrolled hospital providing outpatient mental health or substance use services:

- (i) Clinical assessments;

- (ii) Office-based individual and family therapy;
- (iii) Community-based individual and family therapy;
- (iv) Intensive outpatient program (IOP);
- (v) Group therapy;
- (vi) Comprehensive medication services; and
- (vii) Ongoing case management provided to clients under twenty-one (21) years of age.

(e) The following are covered services when furnished by a licensed BCBA-D or BCBA:

- (i) Behavior identification assessments,
- (ii) Observational behavioral follow-up assessments,
- (iii) Adaptive behavior treatments, and
- (iv) Family adaptive behavior treatment guidance.

(f) Adaptive behavior treatment is a covered service when furnished by a licensed BCaBA or a RBT under the supervision by a BCBA-D or BCBA.

(g) An RBT shall not be assigned duties which include designing assessment or intervention plans or procedures.

(h) Clubhouse Rehabilitation Services are covered when furnished by a provider that is enrolled and accredited by Clubhouse International.

Section 7. Service Limitations.

(a) Medicaid payment for rehabilitative services shall be limited to thirty (30) visits per calendar year, unless pre-approved based on a determination that additional services are medically necessary.

(b) Habilitative services are not covered for clients twenty-one (21) years of age or older.

Section 8. Excluded Services.

(a) The following services are excluded:

(i) Clinical services which are not provided in person or via a telehealth modality, other than collateral contacts necessary to develop or implement a treatment plan;

- (ii) Education, public education, public relations, and speaking engagements;
- (iii) Day care;
- (iv) Driving while under the influence (DUI) classes;
- (v) Missed appointments;
- (vi) Psychological testing done for the sole purpose of education diagnosis, school or institution admission or placement or Medicaid waiver eligibility assessments;
- (vii) Record-keeping time, unless allowed by a specific service code;
- (viii) Recreation and socialization without an active clinical treatment component as specified in the individual client's treatment plan;
- (ix) Remedial or other formal education;
- (x) Residential room, board, or care;
- (xi) Substance abuse or mental health disorder prevention services;
- (xii) Support groups, such as Alcoholics Anonymous or Narcotics Anonymous;
- (xiii) Time spent preparing records or reports, except for up to three (3) hours for a licensed psychologist to prepare a formal report of test findings;
- (xiv) Vocational services;
- (xv) Services provided to a client with:
 - (A) Sole Diagnostic and Statistical Manual (DSM) diagnosis of intellectual or cognitive disability;
 - (B) DSM diagnosis of factitious disorder; or
 - (C) DSM diagnosis of any ICD-10 "Z" code, unless the client's medical record contains a written statement signed by the affiliated clinical professional explaining why the treatment of a condition that is not classified as a mental disorder is medically necessary;
- (xvi) Services provided by a school psychologist, except when provided pursuant to Medicaid Rules Chapter 52 School Based Services.

Section 9. Clubhouse Rehabilitation Services. Notwithstanding other Wyoming Department of Health Medicaid rules, the following rules apply to Clubhouse Rehabilitation Services:

- (a) To become a member, a client must first complete the DLA-20 and have at least the minimum score set forth in the Department's Provider Manual;
- (b) The DLA-20 must be performed by an Independent Assessor or a Level of Care Assessor;
- (c) A Provider must:
 - (i) Be accredited by Clubhouse International which focuses on non-clinical community-based support services of the work-ordered day;
 - (ii) Have a Clubhouse Director.
- (d) The minimum qualifications for a Clubhouse Director are:
 - (i) A bachelor's degree in a health and human services field; licensed, certified, or registered by the State or a national organization that provides health care services; and two years experience working at a clubhouse or with the target population of a clubhouse; or
 - (ii) A master's degree in a health and human services field; licensed, certified, or registered by the State or a national organization that provides health care services; and one year experience working at a clubhouse or with the target population of a clubhouse.
- (e) Clubhouse Rehabilitation Services include, but are not limited to, operating (with staff assistance) all aspects of the clubhouse, employment training, housing assistance, educational support, and activities to improve skills related to illness and recovery management, daily living activities, and social interaction.
- (f) The rehabilitative service limitation does not apply to Clubhouse Rehabilitation Services.

Section 10. Limited Services for Nursing Home Residents.

- (a) Medicaid payment for services provided to a client in a nursing facility is limited to:
 - (i) Clinical assessment;
 - (ii) Community-based individual and family therapy; and
 - (iii) Group therapy.

Section 11. Prior Authorization. The Department may designate behavioral health services, such as mental health services, and substance use treatment services that require prior authorization. The failure to obtain prior authorization shall result in denial of Medicaid payment for the service. Prior authorization of medical supplies and equipment shall be governed by the

prior authorization requirements of Medicaid Rules Chapter 3.

Section 12. Medicaid Allowable Payment.

(a) The Department shall establish and maintain payment rates for behavioral health services to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available, to the extent that such care and services are available to the general population in the geographic area.

(b) Except as otherwise specified in this Chapter or the Wyoming Medicaid Rules, the Medicaid Allowable Payment shall not exceed the lower of the provider's usual and customary charges or the Medicaid fee schedule in effect on the date services were provided. The Medicaid fee schedule may include specific fees for services and/or a methodology for establishing such fees. The fee schedule is available upon request from the Department.

Section 13. Submission and Payment of Claims. Submission and payment of claims shall be pursuant to Medicaid Rules Chapter 3.

Section 14. Third Party Liability.

(a) Claims subject to third party liability shall be submitted in accordance with Medicaid Rules Chapter 35.

(b) The Medicaid payment for a claim for which third party liability exists shall be the difference between the Medicaid allowable payment and the third-party payment. In no case shall the Medicaid payment exceed the payment otherwise allowable pursuant to this Chapter.

Section 15. Audits. Audits shall be subject to the provisions of Medicaid Rules Chapter 16.

Section 16. Overpayments. The Department shall recover overpayments pursuant to Medicaid Rules Chapter 16. In addition to using its own internal processes for recovery of overpayments, the Department may refer a matter involving suspected overpayments to the Medicaid Fraud Control Unit at any time.

CHAPTER 13

Behavioral Health Services

Section 1. Authority. The Wyoming Department of Health (Department) promulgates this Chapter pursuant to the Wyoming Medical Assistance and Services Act at Wyoming Statutes §§ 42-4-101 through 42-4-124.

Section 2. Purpose and Applicability.

(a) The Department adopts this Chapter to establish the scope of behavioral health services, such as mental health and substance use treatment services, covered by Medicaid and provided by certified community mental health centers, substance abuse treatment centers, and specific ~~certified and~~ licensed providers. This Chapter also includes the payment and submission of claims by providers of such services.

(b) This Chapter applies to all clients and providers for all furnished Medicaid behavioral health services.

(c) The Department may issue manuals and bulletins to interpret this Chapter. Such manuals and bulletins shall be consistent with and reflect the rules contained in this Chapter. The provisions contained in manuals or bulletins shall be subordinate to this Chapter.

Section 3. Definitions.

(a) Except as otherwise specified in Wyoming Medicaid Rules Chapter 1, or as defined herein, the terminology used in this Chapter is the standard terminology and has the standard meaning used in behavioral health care, Medicaid, and Medicare.

(b) “Applied Behavior Analysis (ABA) Treatment” means behavior analysis services provided to children between the ages of 0-20 years of age with a diagnosis of Autism Spectrum Disorder in order to improve social, communication, and learning skills.

(c) “Behavior analysis” means the design, implementation and evaluation of the instructional and environmental modifications based on scientific research and direct and indirect observation and measurement of behavior and environment to produce socially significant improvements in human behavior. It includes the empirical identification of functional relations between behavior and environmental factors. It does not include psychotherapy, cognitive therapy, psychoanalysis, hypnotherapy, counseling, psychological testing, personality, or intellectual or neuropsychological assessments, or the diagnosis of psychological disorders.

(d) “Certified center” means a community mental health or substance abuse treatment center that is certified by the Wyoming Department of Health, ~~Division of Behavioral Health~~ Division.

(e) “Clinical Professional” means an individual who is licensed as a:

- (i) Licensed Addictions Therapist;
 - (ii) Licensed Advanced Practitioner of Nursing with a specialty area of psychiatric/mental health (APRN);
 - (iii) Licensed Clinical Social Worker;
 - (iv) Licensed Marriage and Family Therapist;
 - (v) Licensed Physician;
 - (vi) Licensed Professional Counselor;
 - (vii) Licensed Psychiatric Nurse (Master level);
 - (viii) Licensed Psychologist;
 - (ix) Licensed Board Certified Behavior Analyst – Doctoral (BCBA-D), as defined by the Behavior Analyst Certification Board and the Wyoming Board of Psychology (Wyo. Stat. §§ 33-27-124 and 33-27-125); or
 - (x) Licensed Board Certified Behavior Analyst (BCBA), as defined by the Behavior Analyst Certification Board and the Wyoming Board of Psychology (Wyo. Stat. §§ 33-27-124 and 33-27-125).
- (f) “Clinical staff” means an individual who is a:
- (i) Case Manager, who has achieved a bachelor’s degree in a human relations discipline, is trained in case management, and who is working under the documented and, scheduled supervision of a licensed mental health professional;
 - (ii) Certified Addictions Practitioner (CAP), who is certified by the Mental Health Professions Licensing Board pursuant to the Wyoming Mental Health Professions Practice Act (Wyo. Stat. §§ 33-38-101 through -113) to practice under the supervision of a licensed and qualified clinical supervisor;
 - (iii) Certified Addictions Practitioner Assistant (CAPA), who is certified by the Wyoming Mental Health Professions Licensing Board or similar authority in another State to practice under the supervision of a licensed and qualified clinical supervisor;
 - (iv) Certified Mental Health Worker (CMHW), who has achieved a bachelor’s degree in a human relations discipline as specified in the Wyoming Mental Health Professions Licensing Board, Chapter 5-Certified Mental Health Worker and who is working under the documented, scheduled supervision of a licensed mental health professional;
 - (v) Certified Peer Specialist (CPS), who has a minimum general equivalency diploma (GED) or high school diploma; meets the criteria and supervision requirements of a

Mental Health Technician; is certified by the Division of Behavioral Health as a peer specialist; and is working under the documented, scheduled supervision of a licensed mental health professional;

(vi) Certified Social Worker (CSW) or a Certified Mental Health Worker (CMHW), who is certified by the Wyoming Mental Health Professions Licensing Board or similar authority in another State to practice under the supervision of a qualified clinical supervisor licensed in the state of Wyoming;

(vii) Licensed Board Certified Assistant Behavior Analyst (BCaBA), as defined by the Behavior Analyst Certification Board and the Wyoming Board of Psychology (Wyo. Stat. §§ 33-27-124 and 33-27-125); ~~or~~

(viii) Licensed Practical Nurse (LPN), who is performing nursing duties within the scope of practice as defined by the Wyoming Board of Nursing Rules, Chapter 3-Standards of Nursing Practice;

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(j) “DLA-20” means a tool designed to reliably assess twenty areas of daily living activity functioning for adults impacted by a mental illness or disability.

(k) “Evidence-based intervention” means intervention that:

(i) Shows statistically significant effectiveness through empirical research in treating specific problems and populations;

(ii) Is consistent with relevant clinical expertise; and

(iii) Considers client preferences and values.

(l) “Evidence-informed intervention” means programs and practices that use the best available research and practice knowledge to guide their design and implementation.

~~(h)~~(m) “Habilitative services” means services that help clients keep, learn, or improve skills and functioning for daily living. Examples would include therapy for a child who is not walking or talking at the expected age.

(n) “Independent Assessor” means an assessor certified by the Department who:

(i) Has completed DLA-20 assessment training and passed the Department’s DLA-20 proficiency exam;

(ii) Is current with all continuing certification requirements;

(iii) Does not have any financial tie to a clubhouse provider; and

(iv) At a minimum has obtained a GED and has two years of lived experience, or a bachelor’s degree in a human service-related field.

(o) “Member” means a client receiving Clubhouse Rehabilitation Services.

~~(i)~~(p) “Rehabilitative services” means services that help clients keep, get back, or improve skills and functioning for daily living that have been lost or impaired because the due to the client’s was sick illness, hurt injury, or suddenly acquired disability.

(q) “Serious mental illness (SMI)” means a long-term illness involving substantial functional impairment over multiple symptom domains. These impairments often lead to an inability to maintain gainful employment, poor social support, repeated psychiatric hospitalizations, homelessness, incarceration, and coexisting substance use disorders. Possible diagnoses include psychotic disorders, bipolar disorder, major depression with psychotic symptoms and treatment-resistant depression. SMI can also include anxiety disorders, eating disorders, and personality disorders if the degree of functional impairment is severe.

Section 4. Provider Participation.

(a) No certified center, licensed psychologist, licensed APRN, licensed mental health professional, ~~or licensed behavioral analyst~~ or clubhouse that furnishes services to a client shall receive Medicaid ~~reimbursement~~ payment unless enrolled with Medicaid.

(b) A certified center, licensed psychologist, licensed APRN, licensed mental health professional, or licensed behavioral analyst that wishes to receive Medicaid ~~reimbursement~~ payment for services furnished to a client shall meet the provider participation requirements of Medicaid Rules Chapter 3.

Section 5. Special Requirements for Certified Center Services.

(a) To receive Medicaid ~~reimbursement~~ payment a certified center shall:

(i) Meet Medicaid enrollment requirements pursuant to Medicaid Rules Chapter 3; and

~~(ii) If a community mental health center, be under contract with the Wyoming Department of Health, Division of Behavioral Health as a certified center;~~

(ii) Be certified by and under contract with the Behavioral Health Division for taxonomies to access both Medicaid and Behavioral Health Center benefit plans.

(A) If a provider's contract with the Behavioral Health Division terminates, as of the date of termination, the provider will only have access to taxonomies for certified centers and can only bill Medicaid benefit plans.

(B) If a provider is not under contract with the Behavioral Health Division, the provider is not considered a behavioral health center as used in this Section.

(b) Each member of a certified center's staff who provides case management services shall:

(i) Be enrolled as a Medicaid provider pursuant to Medicaid Rules Chapter 3;

(ii) Be employed by, or under contract with, a certified center to provide case management services;

(iii) Be a clinical professional or clinical staff member.

(c) Each member of a certified center's ~~the~~ staff who provides Individual Rehabilitative Services (IRS) shall:

(i) Be enrolled as a Medicaid provider pursuant to Medicaid Rules Chapter 3;

(ii) Be eighteen (18) years of age or older;

- (iii) Have, at minimum, a GED or a high school diploma;
 - (iv) Be employed by, or under contract with, a certified center to provide IRS services;
 - (v) Complete a basic training program which includes non-violent behavior management; and
 - (vi) Be supervised by the client's primary therapist as evidenced by co-signature of the primary therapist on each IRS progress note.
- (d) Each member of a certified center's staff who provides mental health or substance use services shall:
- (i) Be employed by, or under contract with, a certified center; and
 - (ii) Be a clinical professional or clinical staff member who meets the requirements of the specific service and who practices within the scope of their license or certification.

Section 6. Covered Services.

- (a) Covered services shall be:
- (i) Furnished to a client or collateral contact for the direct and exclusive benefit of the client;
 - (ii) Furnished by a clinical professional or clinical staff member who meets the requirements of the specific service and who practices within the scope of their license or certification;
 - (iii) Furnished pursuant to a treatment plan, updated and signed by a clinical professional at least every ninety (90) days. Unless the service is an initial clinical assessment, the treatment plan shall list the type, frequency, and duration of each service provided;
 - (iv) Documented by providing a legible progress note in the client's medical record. Each progress note shall contain a hand-written or electronic signature and credentials of the provider and shall specify:
 - (A) Service type and setting (if outside of the office);
 - (B) Begin and end times (Military or Standard Time); and
 - (C) Client progress towards goals identified in their current treatment plan; and
 - (v) Rehabilitative and medically necessary.

- (b) The following are covered services when furnished by a certified center:
- (i) Clinical assessments;
 - (ii) Office-based individual and family therapy;
 - (iii) Community-based individual and family therapy;
 - (iv) Psychosocial rehabilitation (day treatment);
 - (v) Intensive outpatient program (IOP);
 - (vi) Group therapy;
 - (vii) Comprehensive medication services;
 - (viii) Individual rehabilitative services (IRS);
 - (ix) Certified peer specialist services;
 - (x) Targeted case management provided to clients twenty-one (21) years of age and older; and
 - (xi) Ongoing case management provided to clients under twenty-one (21) years of age.

(c) The following are covered services when furnished by a licensed psychologist, licensed APRN, or licensed mental health professional:

- (i) Clinical assessment;
- (ii) Office-based individual and family therapy services;
- (iii) Community-based individual and family therapy;
- (iv) Group therapy;
- (v) Ongoing case management services provided to clients under twenty-one (21) years of age; and
- (vi) Additional services as specified in Medicaid policy manuals and provider bulletins. These services provided by licensed psychologists or licensed APRNs may include psychological testing, psychotherapy, and evaluation and management services.

(d) The following are covered services when furnished by an enrolled hospital providing outpatient mental health or substance use services:

- (i) Clinical assessments;
- (ii) Office-based individual and family therapy;
- (iii) Community-based individual and family therapy;
- (iv) Intensive outpatient program (IOP);
- (v) Group therapy;
- (vi) Comprehensive medication services; and
- (vii) Ongoing case management provided to clients under twenty-one (21) years of age.

(e) The following are covered services when furnished by a licensed BCBA-D or BCBA:

- (i) Behavior identification assessments,
- (ii) Observational behavioral follow-up assessments,
- (iii) Adaptive behavior treatments, and
- (iv) Family adaptive behavior treatment guidance.

(f) Adaptive behavior treatment is a covered service when furnished by a licensed BCaBA or a RBT under the supervision by a BCBA-D or BCBA.

(g) An RBT shall not be assigned duties which include designing assessment or intervention plans or procedures.

(h) Clubhouse Rehabilitation Services are covered when furnished by a provider that is enrolled and accredited by Clubhouse International.

Section 7. Service Limitations.

(a) Medicaid ~~reimbursement~~ payment for rehabilitative services shall be limited to thirty (30) visits per calendar year, unless pre-approved based on a determination that additional services are medically necessary.

(b) Habilitative services are not covered for clients twenty-one (21) years of age or older.

Section 8. Excluded Services.

(a) The following services are excluded:

- (i) Clinical services which are not provided in person or via a telehealth modality, other than collateral contacts necessary to develop or implement a treatment plan;
- (ii) Education, public education, public relations, and speaking engagements;
- (iii) Day care;
- (iv) Driving while under the influence (DUI) classes;
- (v) Missed appointments;
- (vi) Psychological testing done for the sole purpose of education diagnosis, school or institution admission or placement or Medicaid waiver eligibility assessments;
- (vii) Record-keeping time, unless allowed by a specific service code;
- (viii) Recreation and socialization without an active clinical treatment component as specified in the individual client's treatment plan;
- (ix) Remedial or other formal education;
- (x) Residential room, board, or care;
- (xi) Substance abuse or mental health disorder prevention services;
- (xii) Support groups, such as Alcoholics Anonymous or Narcotics Anonymous;
- (xiii) Time spent preparing records or reports, except for up to three (3) hours for a licensed psychologist to prepare a formal report of test findings;
- (xiv) Vocational services;
- (xv) Services provided to a client with:
 - ~~A.(A)~~ Sole Diagnostic and Statistical Manual (DSM) diagnosis of intellectual or cognitive disability;
 - ~~B.(B)~~ DSM diagnosis of factitious disorder; or
 - ~~C.(C)~~ DSM diagnosis of any ICD-10 "Z" code, unless the client's medical record contains a written statement signed by the affiliated clinical professional explaining why the treatment of a condition that is not classified as a mental disorder is medically necessary;
- (xvi) Services provided by a school psychologist, except when provided pursuant to Medicaid Rules Chapter 52 School Based Services.

Section 9. Clubhouse Rehabilitation Services. Notwithstanding other Wyoming Department of Health Medicaid rules, the following rules apply to Clubhouse Rehabilitation Services:

(a) To become a member, a client must first complete the DLA-20 and have at least the minimum score set forth in the Department's Provider Manual;

(b) The DLA-20 must be performed by an Independent Assessor or a Level of Care Assessor;

(c) A Provider must:

(i) Be accredited by Clubhouse International which focuses on non-clinical community-based support services of the work-ordered day;

(ii) Have a Clubhouse Director.

(d) The minimum qualifications for a Clubhouse Director are:

(i) A bachelor's degree in a health and human services field; licensed, certified, or registered by the State or a national organization that provides health care services; and two years experience working at a clubhouse or with the target population of a clubhouse; or

(ii) A master's degree in a health and human services field; licensed, certified, or registered by the State or a national organization that provides health care services; and one year experience working at a clubhouse or with the target population of a clubhouse.

(e) Clubhouse Rehabilitation Services include, but are not limited to, operating (with staff assistance) all aspects of the clubhouse, employment training, housing assistance, educational support, and activities to improve skills related to illness and recovery management, daily living activities, and social interaction.

(f) The rehabilitative service limitation does not apply to Clubhouse Rehabilitation Services.

Section 910. Limited Services for Nursing Home Residents.

(a) Medicaid reimbursement payment for services provided to a client in a nursing facility is limited to:

(i) Clinical assessment;

(ii) Community-based individual and family therapy; and

(iii) Group therapy.

Section 1011. Prior Authorization. The Department may designate behavioral health

services, such as mental health services, and substance use treatment services that require prior authorization. The failure to obtain prior authorization shall result in denial of Medicaid payment for the service. Prior authorization of medical supplies and equipment shall be governed by the prior authorization requirements of Medicaid Rules Chapter 3.

Section ~~4~~12. Medicaid Allowable Payment.

(a) The Department shall establish and maintain payment rates for behavioral health services to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available, to the extent that such care and services are available to the general population in the geographic area.

(b) Except as otherwise specified in this Chapter or the Wyoming Medicaid Rules, the Medicaid Allowable Payment shall not exceed the lower of the provider's usual and customary charges or the Medicaid fee schedule in effect on the date services were provided. The Medicaid fee schedule may include specific fees for services and/or a methodology for establishing such fees. The fee schedule is available upon request from the Department.

Section ~~42~~13. Submission and Payment of Claims. Submission and payment of claims shall be pursuant to Medicaid Rules Chapter 3.

Section ~~43~~14. Third Party Liability.

(a) Claims subject to third party liability shall be submitted in accordance with Medicaid Rules Chapter 35.

(b) The Medicaid payment for a claim for which third party liability exists shall be the difference between the Medicaid allowable payment and the third-party payment. In no case shall the Medicaid payment exceed the payment otherwise allowable pursuant to this Chapter.

Section ~~44~~15. Audits. Audits shall be subject to the provisions of Medicaid Rules Chapter 16.

Section ~~45~~16. Overpayments. The Department shall recover overpayments pursuant to Medicaid Rules Chapter 16. In addition to using its own internal processes for recovery of overpayments, the Department may refer a matter involving suspected overpayments to the Medicaid Fraud Control Unit at any time.