

Wyoming Administrative Rules

Health, Department of

Aging Division

Chapter 9: Program Administration of Home Health Agencies

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**WYOMING DEPARTMENT OF HEALTH
AGING DIVISION
RULES
For
PROGRAM ADMINISTRATION OF HOME HEALTH AGENCIES**

CHAPTER 9

Section 1. Authority. These rules are promulgated by the Department of Health pursuant to the Senior Citizens Act, W.S. §9-2-1201 et seq., and the Wyoming Administrative Procedures Act at W.S. §16-3-101 et seq.

Section 2. Purpose. These rules have been adopted for the day-to-day operation of home health agencies.

Section 3. Severability. If any portion of these rules is found to be invalid or unenforceable, the remainder shall continue in effect.

Section 4. Definitions.

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

For purpose of these rules, the following shall apply:

(a) “Age of majority.” The age at which a child becomes an adult, which is currently defined by W.S. §14-1-101 as the age of eighteen (18) years.

(b) “Central Registry.” The registry maintained by the Wyoming Department of Family Services pursuant to W.S. §14-3-213, which indexes perpetrators of child abuse or neglect and abuse, neglect, exploitation or abandonment of disabled adults. The registry information is available by calling 307-777-5894.

(c) “Certified Nurse Assistant (CNA).” An individual who is currently certified by the Wyoming State Board of Nursing and his/her certification has been verified by the home health agency Administrator or his/her designee.

(d) “Chief Administrative Officer.” The Director, Department of Health as per W.S. §9-2-101(e), or the designated Licensure representative.

(e) “Client.” A person who is served by, or uses the services of a home health agency, either with or without charge.

(f) “Complaint.” A formal allegation of injustice or perceived harm referred to an outside party or agency.

(g) “Complaint Investigations.” Those investigations required to be performed by the State Long Term Care Ombudsman as per W.S. §9-2-1301 through W.S. §9-2-1309 or by the State Survey Agency as per the agreement dated June 18, 1985 between the Secretary of the U.S. Department of Health and Human Services and the State of Wyoming.

(h) “Days.” Calendar days.

(i) “Dietitian.” A person who is registered by the American Dietetic Association and provides nutritional and dietary consultation services to the home health agency and individual clients.

(j) “Fidelity bond.” A contract of fidelity insurance, in which there is an agreement to insure another against loss arising from the want of honesty, integrity or fidelity of an employee of the home health agency.

(k) “Governing Body.” The individual(s), group, or agency that has ultimate authority and responsibility for establishing client care policies, personnel policies, and providing for organization, management and planning of the home health agency.

(l) “Grievance.” A concern of inequitable or inaccurate action that is handled through the agencies internal grievance procedure.

(m) “Health Care Services.” Includes, but is not limited to, nursing, physical therapy, speech pathology, occupational therapy, respiratory therapy, medical social work, home health aide, and dietary services. All staff shall be licensed/certified in accordance with the Wyoming State Statutes.

(n) “Homemaker.” A person who assists with environmental services such as housekeeping, basic meal preparation, shopping and laundry. Homemakers provide no personal care.

(o) “Home Health Agency.” Any group, public agency, private organization, or any individual person who is primarily engaged in arranging for and directly providing two or more health care services to persons at their residence.

(p) “Home Health Aide.” A nursing assistant certified by the Wyoming Board of Nursing who has received sixteen (16) hours of additional training on home health issues, approved by the Wyoming Board of Nursing.

(q) “Licensing Division.” The Department of Health, Office of Health Quality.

(r) “Licensed Practical Nurse (LPN).” A person who is licensed to practice as a licensed practical nurse by the Wyoming Board of Nursing pursuant to W.S. §33-21-120.

(s) “Occupational Therapy Assistant.” A person who is licensed by the Wyoming Board of Occupational Therapy to practice as a Certified Occupational Therapy Assistant pursuant to W.S. §33-40-102 (a)(ii).

(t) “Occupational Therapist.” A person who is licensed by the Wyoming Board of Occupational Therapy to practice as a Registered Occupational Therapist pursuant to W.S. §33-40-102(a)(iv).

(u) “Occupational Therapy.” The use of purposeful activity with individuals who are limited by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities or the aging process in order to maximize independence, prevent disability and to maintain health. The practice encompasses evaluation, treatment and consultation. Occupational therapy is provided by an occupational therapist or by a certified occupation therapy assistant under the supervision of an occupational therapist.

(v) “Personal Care.” Activities such as, but not limited to, bathing, grooming, feeding, ambulating, exercising, oral hygiene, and skin care.

(w) “Physical Therapy Assistant.” A person who is licensed to practice in the State of Wyoming as a physical therapy assistant pursuant to W.S. §33-25-101(a)(v).

(x) “Physical Therapy.” The evaluation, instruction or treatment of a human being to prevent, correct, alleviate or limit physical disability due to injury, disease or any other physical or mental condition by the utilization of physical measures such as exercise, massage, heat, cold, air, light, water, electricity or sound, and rehabilitative procedures including training in functional activities and the performance and interpretation of tests and measurements of bodily functions as an aid in the examination, evaluation or treatment of any human conditions for the purpose of correcting or alleviating an individual’s physical or mental disability. Physical therapy also includes the supervision of physical therapy activities, physical therapy consultation and the establishment and modification of physical therapy programs, but physical therapy shall not include radiology or electro-surgery or authorize the diagnosis of disease. Treatment by physical therapy shall be rendered subject to W.S. §33-2-102.

(y) “Physical Therapist.” A person who is licensed to practice physical therapy in the State of Wyoming pursuant to W.S. §33-25-101.

(z) “Plan of Care.” An individualized plan developed for each client which, at a minimum addresses: diagnoses, medications, types of services, equipment, visit protocol, functional limitations, activity level, nutrition requirements, treatments and safety issues, and any other information necessary to care for the client.

(aa) “Primarily Engaged.” A relationship between a provider of services and a client whereby a provider offers to arrange for or directly provide health care services at a client’s residence and the client accepts the offer. When this relationship is agreed upon, the provider becomes primarily engaged in providing health care services to the client.

(bb) “Program Administration.” The rules and regulations promulgated by the Department of Health and developed by the Program Division for the day-to-day operation of a home health agency per W.S. §9-2-1208.

(cc) “Program Division.” The Department of Health, Aging Division.

(dd) “Provider.” A licensed home health agency.

(ee) “Registered Nurse (RN).” A graduate of an approved school of professional nursing, who is currently licensed to practice as a registered nurse by the Wyoming Board of Nursing pursuant to W.S. §33-21-120 et. seq.

(ff) “Respiratory Care.” The health specialty responsible for the treatment, management, diagnostic testing, control, and care of clients with deficiencies and abnormalities associated with the cardiopulmonary system.

(gg) “Skilled Services.” Professional services provided by a Registered Nurse, Licensed Practical Nurse, Physical Therapist, Occupational Therapist, Speech Language Pathologist, Respiratory Therapist, Social Worker, or Registered Dietitian.

(hh) “Speech Language Pathologist.” A person who is licensed in the State of Wyoming to practice speech language pathology as per W.S. §33-33-101 through W.S. §33-33-309.

(ii) “Speech Pathology.” The application of principles, methods, and procedures for the evaluation, monitoring, instruction, habilitation, or rehabilitation related to the development and disorders of speech, voice, or language for preventing, identifying, evaluating and reducing the effects of such disorders and conditions.

(jj) “Social Worker.” Those services provided by a qualified social worker or by a qualified social service assistant under the supervision of a qualified social worker as per W.S. §33-38-106, and according to the client’s plan of care.

(kk) “State Survey Agency.” The Department of Health, Office of Health Quality which has the primary responsibility to determine whether health care providers/suppliers do or do not meet federal certification standards to participate in the Medicaid and/or Medicare programs as per the agreement dated June 18, 1985 between the Secretary of the U.S. Department of Health and Human Services and the State of Wyoming.

(ll) “Survey.” An on-site evaluation conducted by the Survey Division or its designated representative to determine compliance with State rules and regulations for Home Health Agencies.

(mm) “Survey Division.” The Department of Health, Office of Health Quality.

(nn) “Therapy services.” Include physical therapy, occupational therapy, and speech language therapy.

(oo) “Unskilled Services.” Any service provided by the agency that is not skilled services.

Section 5. Organization and Administration.

(a) Governing Body. The home health agency shall have a governing body which has legal authority and responsibility to operate the home health agency. The governing body shall:

(i) Obtain a fidelity bond for client protection arising from the want of honesty, integrity or fidelity of any employee. The bond shall consist of no less than \$2500 and shall be augmented in relation to the number of employees.

(ii) Provide verification of a central registry check on all employees hired at the time of, or after, the filing of these rules. The individual, agencies or corporations are responsible to initiate and follow this process to completion.

Central Registry information can be obtained by contacting the Department of Family Services at 307-777-5894. (This number may be subject to change.)

(iii) Adopt, revise, and approve personnel policies; including;

(A) Frequency and content of evaluations; and

(B) Assurance of confidentiality of information obtained from the Central Registry.

(iv) Prepare an organizational chart that reflects the administrative control and lines of authority for the delegation of responsibility from management down to the client level.

(v) Appoint a qualified administrator who is designated in writing as responsible and available for all aspects of agency operation.

(A) A qualified administrator is:

(I) A licensed physician, registered nurse, or college graduate with a bachelor's degree who has a minimum of three (3) years of health care management experience; or

(II) A person without a college degree may qualify by obtaining and documenting the equivalent of six (6) years of supervisory experience in health care management.

(B) The administrator and supervisory nurse may be the same individual if the individual is dually qualified.

(C) The administrator must identify in writing an individual who is qualified and authorized to act on behalf of the administrator when the administrator is not available.

(vi) Employ a supervisory nurse who is a registered nurse and who has at least one (1) year home health experience. The supervisory nurse must be available during the normal hours of operation. In lieu of the one (1) year home health experience requirement, a consultation agreement shall suffice when the agreement:

(A) Is in writing and signed by all parties involved;

(B) Enables the supervisory nurse to have immediate contact, seven (7) days a week, twenty-four (24) hours per day with a registered nurse who has at least one (1) year of home health experience;

(C) Remains in effect until the supervisory nurse has gained one (1) year of home health experience; and

(D) Requires the consultations to be documented and on file at the location of the supervisory nurse.

(vii) Develop an effective, ongoing, agency-wide, written quality management program which ensures and evaluates quality of care provided to all clients in accordance with W.S. §35-2-910.

(viii) Grievance Procedure.

(A) The written grievance procedure shall establish a system of reviewing complaints and allegations of clients' rights violations to include, but not be limited to:

(I) Client method to voice grievances;

(II) Documentation of the home health agency's response to verbal and written client grievances;

(III) List of appropriate agencies, with addresses and telephone numbers for clients to contact if grievances are not addressed satisfactorily; and

(IV) Written reports of all unresolved grievances shall be provided to the Licensing Division within ten (10) days after the grievance is filed with the home health agency. (If the ten (10) day requirement cannot be met the Licensing Division should be contacted.)

(V) Resolved grievances and the resolutions shall be kept on file in the agency office.

(ix) Complaint Investigations.

(A) Clients' complaints and problems shall be referred in writing to the State Long Term Care Ombudsman.

(B) The Office of the Ombudsman shall complete all complaint investigations within an appropriate time frame depending upon the seriousness of the allegations.

(C) Written reports of investigations and the status of resolutions completed by the home health agency shall be provided by the State Long Term Care Ombudsman to the Licensing Division, within thirty (30) days after the completion of the investigation.

Exception: Those complaints or problems reported directly to the State Survey Agency or referred by the State Long Term Care Ombudsman to the State Survey Agency shall be investigated by the State Survey Agency as per the Agreement between the Secretary of the U.S. Department of Health and Human Services and the State of Wyoming dated June 18, 1985.

(x) Employee Personnel Records.

(A) There shall be one (1) person designated responsible for maintaining confidentiality.

(xi) Employee Health.

(A) The home health agency shall develop policies and procedures for employee health including a policy that identifies communicable diseases that could put the client population at risk.

(B) The home health agency must document that the employee is free of communicable diseases that could be a risk to the client population.

(xii) Advanced Directives.

(A) The home health agency shall adopt policies which assure that it provides information on advanced directives to clients. If the client's advanced directives are known, they shall be followed by the home health agency.

(xiii) Clients' Rights.

(A) A home health client has the right to:

(I) Be treated with dignity, consideration and respect.

(II) Have his/her property treated with respect,

(III) Receive a timely response to his/her request for service.

(IV) Be fully informed upon admission of the care and treatment that will be provided, how much it will cost, and how payment will be handled.

(V) Be informed in advance of any changes in care to be furnished.

(VI) Be informed in advance if he/she will be responsible for any payment.

(VII) Receive care from professionally trained personnel. Be informed of the names and responsibilities of care providers, and to have the right of choice in care providers.

(VIII) Participate in designing a care plan, and periodically updating it as his/her condition changes. Refuse treatment and to be told the consequences of his/her actions.

(IX) Expect confidentiality of all information related to his/her care, within required regulations.

(X) Be informed within a reasonable time of anticipated termination of service. Be referred elsewhere, if he/she is denied services based solely on his/her ability to pay.

(XI) Authorize discontinuation of treatment which will be respected in accordance with the home health agency's policy.

(XII) Know how to make a complaint or grievance or recommend changes in agency policies and services, and have the freedom to do so.

(XIII) Call the home health agency administration during regular office hours.

(XIV) Call a home health hotline number as provided by the provider.

(xiv) Notification.

(A) Prior to admission all prospective clients shall be notified if the home health agency is not Medicare and/or Medicaid certified.

(B) The responsible party shall be notified of the service charges at the time of admission and notified of changes in the charges at least thirty (30) days in advance of the changes.

Section 6. Home Health Aide.

(a) Must be a CNA and have completed training to ensure competency in the home setting. This training must be documented and retained in the employee personnel record.

(b) If the client requires skilled services in the home, the home health aide must be supervised by a RN or LPN at least every thirty (30) days.

(c) Provide personal care for the client in the home.

(d) Instructions based upon written care plans shall be provided to home health aides by the supervisory nurse at least every sixty (60) days or as the client's condition warrants.

Section 7. Homemaker.

(a) If homemaker services are provided, they may be furnished directly by the home health agency or through contract agreement with a vendor.

(b) The homemaker assists with instrumental activities of daily living, such as housekeeping and homemaking services, in order to preserve a safe, sanitary home and to enhance family life. The homemaker does not provide any personal care.

(i) Examples of duties include but are not limited to:

(A) Housekeeping;

(B) Shopping;

(C) Laundry;

(D) Essential errands;

- (E) Basic meal preparation;
- (F) Meal planning (except for clients on therapeutic diets); and
- (G) Maintaining a safe and sanitary environment.

(ii) Written service plan instructions to the homemaker shall be provided by the supervising professional.

(iii) The written instructions shall be reviewed by the homemaker and the supervising professional as frequently as the client's condition requires, but at least once every ninety (90) days.

(A) The homemaker shall be present during the supervisory visit.

(B) The supervisory visits shall occur at the client's home.

(C) The supervisory visits shall be conducted by an RN or LPN no less than every ninety (90) days for unskilled services.

(c) Training for homemakers:

(i) The following training areas shall be incorporated into home health agency policy and completed before any client assignment.

(ii) Training shall be a minimum of eight (8) hours, and shall be documented in the homemaker's personnel record. Training shall include:

- (A) Orientation to homemaker services;
- (B) Understanding and working with various client populations;
- (C) Understanding basic human needs;
- (D) Communication;
- (E) Practical knowledge and skill in homemaking;
- (F) Maintaining a clean, safe, and healthy environment;
- (G) Universal precautions;
- (H) Emergency procedures; and
- (I) Client Rights and obligations.

(d) Homemaker Service Plan.

(i) If homemaker services are the only service provided, a service plan shall be developed by a supervisor and shall consist of the following:

- (A) The specific procedures to be done;
- (B) The number of times per week the procedures are to be completed, and appropriately spaced during the week;
- (C) The day and approximate arrival time at the client's home; and
- (D) Procedures to be followed in an emergency situation.

Section 8. Client Records.

- (a) Must be maintained for every client receiving services.
- (b) Client records must be retained for a period of six (6) years by the agency.
- (c) All client records must be safeguarded against loss or unauthorized use.

Section 9. Licensing.

- (a) Shall be in accordance with the current Licensure Rules and Regulations for Home Health Agencies as promulgated by the Department of Health.
- (b) Copies of the Licensure rules can be obtained from the Licensing Division.

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