

State of Wyoming



Department of Health

Chapters 1 through 6 Rules and Regulations for the Wyoming Life Resource Center

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May 2009

**State of Wyoming
Department of Health**

**Chapters 1 through 6
Rules and Regulations for the Wyoming Life Resource Center**

Rules and Regulations for the Wyoming Life Resource Center
Wyoming Department of Health
Developmental Disabilities Division

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CHAPTERS 1 THROUGH 6

Rules and Regulations for the Wyoming Life Resource Center

Statement of Reasons

The Wyoming Department of Health proposes to adopt the following New Rules to comply with the provisions of W.S. § 25-5-101, *et seq.*, and the Wyoming Administrative Procedure Act at W.S. § 16-3-101, *et seq.*

The Department is promulgating these Rules, pursuant to the passage into law of the Life Resource Center Act in 2008. The law allows for the Wyoming Life Resource Center (the Center) to provide residential, active treatment, and medical and therapy services to individuals with a disability through intermediate care facilities for people with intellectual disabilities; services to persons with acquired brain injuries; disability, therapeutic and assistive technology services for person with a disability; training for state employees, other service providers and caregivers on disability, medical, developmental and therapy services; and care provided under the authority of the director pursuant to W.S. § 9-2-106(d).

The Life Resource Center Act requires rules and regulations to be in compliance with federal regulations for intermediate care facilities for people with intellectual disabilities. These Rules will establish standards for client services, admission for residential services, and discharge of clients receiving services in all programs administered by the Center. In addition, these Rules will provide for the administration of the Center under the management of the Developmental Disabilities Division, prescribe professional standards for personnel employed at the Center, implement the Life Resource Center Act, and establish data reporting processes.

As required by W.S. § 16-3-103(a)(i)(G), the Wyoming Life Resource Center Rules meet minimum substantive state statutory requirements.

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CHAPTER 1

Rules and Regulations for the Wyoming Life Resource Center

General Provisions

Section 1. Authority. This Chapter is promulgated by the Department of Health to implement the Life Resource Center Act at W.S. § 25-5-101, *et seq.*; establishment of state institutions at W.S. § 25-1-101, *et seq.*; duties and powers of director of department at W.S. § 9-2-106, and pursuant to the Wyoming Administrative Procedure Act at W.S. § 16-3-101, *et seq.* The Director shall appoint a program manager to administer the Center under the direction of the Administrator at W.S. § 25-5-108. Code of Federal Regulations (42 CFR 440.150-483.480(d)(5)), rules and regulations for licensure of Immediate Care Facilities for the Mentally Retarded.

Section 2. Purpose. The Wyoming Life Resource Center (the Center) established; purpose W.S. § 25-5-103; Short Title W.S. § 25-5-101. The provisions contained in this Chapter shall be subordinate to the Life Resource Center Act and, where applicable, the Code of Federal Regulations, Chapter 42, Sections 440.150-483(d)(5), rules and regulations for licensure of Immediate Care Facilities for the Mentally Retarded.

(a) This Chapter is adopted to provide definitions and a philosophy for all Wyoming Life Resource Center Rules and outlining professional standards for personnel employed at the Center.

(b) The Center may issue manuals, bulletins, or both, to affected parties to interpret the provisions of these Rules. Such manuals and bulletins shall be consistent with and reflect the Rules contained in these Wyoming Life Resource Center Rules, Chapters 1, 2, 3, 4, 5 and 6. The provisions contained in manuals or bulletins shall be subordinate to the provisions of these Chapters.

Section 3. 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 include individuals of the other gender.

(a) “Acquired Brain Injury” means any combination of focal and diffuse central nervous system dysfunction, at the brain stem level and above, acquired after birth through the interaction of any external forces and the body, oxygen deprivation, infection, toxicity, surgery, or vascular disorders not associated with aging.

(b) “Active treatment” means a program which includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services, and related services that is directed toward:

(i) The acquisition of the behaviors necessary for the client to function with as much self determination and independence as possible; and

(ii) The prevention or deceleration of regression or loss of current optimal functional status.

(c) “Adaptive behavior” means the collection of conceptual, social and practical skills that have been learned by people in order to function in their everyday lives.

(d) “Administrator” means the administrator of the Division.

(e) “Admissions request form” means the form specified by the Center which an applicant or legally authorized representative completes and submits to the Center for admission consideration.

(f) “Adult” means a person eighteen (18) years of age or older for purposes of the Center.

(g) “Adult Developmental Disabilities Home and Community Based Waiver” means the Adult Developmental Disabilities Home and Community Based Waiver submitted to and approved by the Centers for Medicare and Medicaid Services pursuant to Section 1915(c) of the Social Security Act.

(h) “Adverse action” means the termination, reduction, or denial of services provided to a Client; the denial or withdrawal of admission certification; the discharge from services at the Center; or other action which, by law, may result in a contested case hearing before the Agency. An adverse action shall not include:

(i) The decision whether or not to offer a specific type of service at the Center;

(ii) The staffing decisions made by the Agency in its ordinary course of business; and

(iii) The reduction or denial of services provided or any other action caused solely by a change in Federal or State statutes or regulations.

(i) “Affidavit” means a written notarized statement of facts made voluntarily under oath.

(j) “Agency” means the Department, the Division, or Center, whichever is required by law to act under the circumstances specified.

(k) “Applicant” means an individual who is requesting services.

(l) “Application” means a written statement, in the form specified by the Division that is submitted to the Division, in which an individual indicates that he is interested in receiving covered services. An application may be submitted by one person on behalf of another, but shall have the legally authorized representative’s signature, if applicable.

(m) “Assistive technology device” and “assistive technology service” mean, as defined in 42 U.S.C. 15002, any item, piece of equipment or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities of individuals.

(n) “Audiologist” means a person licensed to practice audiology pursuant to W.S. § 33-33-102(a)(v), 42 CFR 483.430(b)(5)(vii).

(o) “Center” means the Wyoming Life Resource Center in Lander, Wyoming.

(p) “Centers for Medicare and Medicaid Services (CMS)” means the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services, its agent, designee, or successor.

(q) “Certified mail” means mail sent certified, return receipt requested, as provided by the United States Postal Service, or delivery via a commercial delivery service, which provides tracking of the communication and written documentation of its delivery. "Certified mail" may include hand delivery, where a statement confirming delivery is placed in a client’s file, but does not include communication by facsimile transmission, telephone, or electronic mail.

(r) “Certified Nursing Assistant/Nurse Aide” means a person certified to practice nursing assistance pursuant to W.S. § 33-21-120(a)(xii), 42 CFR 483.460(d)(5).

(s) “Certification” meets federal standards of participation and a valid agreement between the Medicaid agency and the Center.

(t) “Child” means any person under the age of eighteen (18) years.

(u) “Client” means any person who has a disability and has been determined eligible pursuant to department rules and regulations and is receiving services from one (1) of the Center’s programs.

(v) “Client services” means diagnosis, education, training, and care of persons who have been admitted to the Center.

(w) “Contestant” means a client, applicant, or legally authorized representative who requests reconsideration or a hearing.

(x) “Department” means the State Department of Health, its agent, designee, or successor.

(y) “Developmental Disability,” as defined in federal law (42 U.S.C. 15002), means a severe, chronic disability of an individual that:

(i) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(ii) Is manifested before the individual attains the age of twenty-two (22) years;

(iii) Is likely to continue indefinitely;

(iv) Results in substantial functional limitations in three (3) or more of the following areas of major life activity:

(A) Self-care;

(B) Receptive and expressive language;

(C) Learning;

(D) Mobility;

(E) Self-direction;

(F) Capacity for independent living; and

(G) Economic self-sufficiency.

(v) Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

(z) “Dietician” means a person who is registered as a dietician by the Commission on Dietetic Registration, and must be eligible for registration by the American Dietetic Association.

(aa) “Director” means the Director of the Department, or the Director's agent, designee, or successor.

(bb) “Direct Support Professional” means a person who provides services to a client.

(cc) “Disability” means a developmental disability, as defined in 42 U.S.C. 15002, or a disability resulting from an acquired brain injury.

(dd) “Division” means the Developmental Disabilities Division of the Department of Health, its agent, designee, or successor.

(ee) “Drug used as a restraint” means any drug that:

(i) Is administered to manage an individual’s behavior in a way that reduces the safety risk to the individual or others;

(ii) Has the temporary effect of restricting the individual’s freedom of movement; and

(iii) Is not a standard treatment for the individual’s medical or psychiatric condition.

(ff) “Emergency” means a circumstance or set of circumstances or the resulting state that calls for immediate action or an urgent need for assistance or relief.

(gg) “Funding” means the combination of state, federal, and private dollars available to pay for covered services.

(hh) “Hearing” means an appeal of Agency action to the Department pursuant to the procedures set forth in this Chapter and as otherwise required by law. Action subject to appeal shall include a determination of the recommended or most appropriate services, least restrictive or most integrated environment or informed choice; the denial, revocation, restriction, or suspension of services; or other action affecting the legal rights or privileges of a client and required by law to be determined after notice and an opportunity for a hearing. The following action shall not be subject to a hearing:

(i) An appeal of specific services offered at the Center where such appeal involves services not otherwise provided at the Center;

(ii) The staffing decisions made by the Agency in its ordinary course of business;

(iii) An appeal from any action caused solely by a change in Federal or State statutes or regulations; and

(iv) The decision, pursuant to W.S. § 25-5-124(a), to discharge a client from the Center. Such decisions shall be immediately appealable in writing to the Director of the Wyoming Department of Health who, upon receipt of such request, shall review the client's record and issue a final decision within thirty (30) days of receipt of such request as required by W.S. § 25-5-124(b).

(ii) "Hearing officer" means the individual designated by the Director to serve as the presiding officer at a hearing held under this Chapter.

(jj) "Individual program plan" means a written statement of long-term and short-term goals and strategies for providing specially designed services to meet each client's individual educational, physical, emotional, and training needs.

(kk) "Informed choice" means making a decision based on adequate information. As appropriate, such information may include provider methods, costs, duration, accessibility, customer satisfaction, probabilities, sources, and consequences.

(ll) "Intellectual disability" means significantly sub-average general intellectual functioning with concurrent deficits in adaptive behavior manifested during the developmental period. "Intellectually disabled" means a person with an intellectual disability.

(mm) "Interdisciplinary team" means a group that represents the person, the person's family or legally authorized representative, and the professions, disciplines or service areas that are relevant to identifying the client's needs, as described in the comprehensive functional assessments and program design.

(nn) "Intermediate Care Facility for People with Intellectual Disabilities" means an intermediate care facility for the mentally retarded or intermediate care facility for people with mental retardation as those phrases are used in applicable federal statutes, rules and regulations.

(oo) "Inventory for Client and Agency Planning" means an instrument used by the Division to help determine eligibility and to determine the needs of the client, available from Riverside Publishing, its successor, or designee.

(pp) "Least restrictive environment" means the program, service and location that least inhibits a person's freedom of movement, informed decision making and participation in community life while achieving the purposes of habilitation and treatment, which best meet the needs of the person. The determination of least restrictive environment shall be individualized, based on a person's need for medical, therapeutic, rehabilitative, and developmental services, and as a result of informed choice

of the person or if the person is a minor or a ward, his parent or legally authorized representative.

(qq) “Legally authorized representative” means:

(i) Minor child's parent or legal guardian;

(ii) An individual's legal guardian;

(iii) An attorney who asserts, in writing, that he represents an individual or entity;

(iv) Any other person who is not an employee of the Center and is authorized in writing to act as an agent on behalf of an individual or entity for the purpose of the matter in question;

(v) Any person, other than a parent acting on behalf of a minor child or an attorney who represents an individual or entity (such a person must attach to the first document submitted to the Division or Center a copy of a written authorization to act on behalf of the specified individual or entity with respect to the particular matter in question); or

(vi) For purposes of this Chapter, a legally authorized representative may at all times act on behalf of the applicant or client to the full extent legally authorized.

(rr) “Licensed Practical Nurse” means a person licensed to practice practical nursing pursuant to W.S. § 33-21-120(a)(x), 42 CFR 483.460 (d)(1)(4).

(ss) “Mechanical Restraint” means any device attached or adjacent to a client’s body that he cannot easily move or remove that restricts freedom of movement or normal access to the body.

(tt) “Medicaid” means medical assistance and services provided pursuant to Title XIX of the Social Security Act and/or the Wyoming Medical Assistance and Services Act. "Medicaid" includes any successor or replacement program enacted by Congress and/or the Wyoming Legislature.

(uu) “Medicare” means the health insurance program for the aged and disabled established pursuant to Title XVIII of the Social Security Act.

(vv) “Most appropriate” means an individualized determination of a person’s need for medical, therapeutic, rehabilitative, and developmental services based upon professional assessment and the informed choice of the person or, if the person is a minor or ward, his parent or guardian.

(ww) “Most integrated” means the setting that enables a person with a disability to have access to the same opportunities as a person without disabilities to the fullest extent possible, including opportunities to live, learn, work, recreate, and participate in family and community activities. Determinations of most integrated shall be individualized and based upon professional assessment and the informed choice of the person or, if the person is a minor or ward, his parent or legally authorized representative.

(xx) “Non-Residential services” means the Center may provide outreach and outpatient services to those individuals not admitted to one of the residential programs.

(yy) “Notice” or “Notify” means a written notice sent by certified mail or hand delivered in which the Agency communicates its intent to act in any manner, which may result in a contested case.

(zz) “Occupational Therapist” means a person licensed to practice occupational therapy pursuant to W.S. § 33-40-102(a)(iv), CFR 483.430(b)(5)(i) through (ii).

(aaa) “Person centered planning” means a process directed by a client that identifies a client’s strengths, capacities, preferences, needs, and the services needed to meet those needs. Person centered planning allows a client to exercise choice and control over the process of developing and implementing the individual program plan.

(bbb) “Personal Restraint” means the application of physical force or physical presence without the use of any device, for the purposes of restraining the free movement of the body of the client. The term personal restraint does not include briefly holding, without undue force, a client in order to calm or comfort her, or holding a client’s hand to safely escort her from one area to another.

(ccc) “Pharmacist” means a person licensed to practice pharmacy pursuant to W.S. § 33-24-116 (a)(i through viii).

(ddd) “Preadmission screening assessment” means an evaluation conducted by the screening team using appropriate assessments and tools for determination of eligibility for a program at the Center.

(eee) “Preliminary interdisciplinary team” means a team that represents professions, disciplines, or service areas to assess and evaluate an applicant’s needs prior to admission to the Center.

(fff) “Physical Therapist” means a person licensed to practice physical therapy pursuant to W.S. § 33-25-101(a)(ii), 42 CFR 483.430(b)(5)(iii) through (iv).

(ggg) “Physician” means a person licensed to practice medicine or osteopathy by the Wyoming Board of Medical Examiners or a similar agency in a different state.

(hhh) “Program Manager” means the on-site supervisor and manager of the Center. The definition would also apply to the administrator-on-call when the administrator is not available.

(iii) “Protection and Advocacy Systems, Inc.” means a protection and advocacy system established in accordance with Section 143 (42 U.S.C. 15043).

(jjj) “Provider” means a person or entity that is certified by the Division to furnish covered services and is currently enrolled as a Medicaid home and community based waiver provider.

(kkk) “Psychologist” means a person licensed to practice psychology pursuant to W.S. § 33-27-113(a)(v), 42 CFR 482.430(b)(5)(v).

(lll) “Qualified Intellectual Disabilities Professional” means the person who ensures the client receives those services and interventions identified in the individual program plan. Qualified Intellectual Disabilities Professionals must have at least one (1) year of experience working directly with persons with intellectual or other developmental disabilities and is one of the following: a doctor of medicine, a doctor of osteopathy, a registered nurse, or an individual who holds at least a bachelor’s degree in a professional category designated as a human services professional (including, but not limited to: sociology, special education, rehabilitation counseling, and psychology).

(mmm) “Radiologic technologist” means a person licensed to practice radiologic technology pursuant to W.S. § 33-37-108(a) through (d).

(nnn) “Reconsideration” means the process by which a contestant may request the Center review a contested case before the contestant may request a hearing.

(ooo) “Records” means all documents, in whatever form, in the possession of or subject to the control of the Center, which describe the client’s diagnosis, condition, or treatment, including, but not limited to, the individual program plan.

(ppp) “Registered Nurse” means a person licensed to practice professional nursing pursuant to W.S. § 33-21-120(a)(xi), 42 CFR 483.460(d)(1).

(qqq) “Rehabilitation services” means any services provided for a primary purpose of assisting the rehabilitation of persons with disabilities, including persons with acquired brain injury, including, but not limited to, comprehensive medical evaluations and services, psychological and social services, residential services, and vocational evaluations and training.

(rrr) “Related condition” means a condition that results in a severe, chronic disability affecting an individual which manifests before she reaches age twenty-two (22)

and that is attributable to cerebral palsy, seizure disorder, or any condition other than mental illness that is closely related to mental retardation and that requires similar services, as determined by a licensed psychologist or physician.

(sss) “Respiratory Therapist” means a person licensed as a respiratory care practitioner pursuant to W.S. § 33-43-108(a) through (d).

(ttt) “Restraint,” “Personal Restraint,” “Mechanical Restraint,” or “Drug Used as a Restraint,” as defined in this section.

(uuu) “Screening team” means a group of appropriate professionals, appointed by the Director pursuant to rules and regulations of the department and assigned by the Administrator, to perform preliminary testing and assessment of a person for purposes of determining eligibility for services at the Center.

(vvv) “Services” mean diagnostic, education, training, medical, habilitation, or other services and/or respite, emergency evaluation services, equipment, therapy, or supplies appropriate to meet the needs of a client residing at the Center.

(www) “Speech Pathologist” means a person licensed to practice speech pathology pursuant to W.S. § 33-33-102(a)(iii), CFR 483.430(b)(5)(vii).

(xxx) “Temporary services” means the administrator may admit individuals for services temporarily pursuant to rules promulgated under W.S. § 25-5-105 if the administrator determines a less restrictive environment is appropriate, but unavailable. A client admitted for services temporarily is not subject to W.S. §§ 25-5-114 through 25-5-115 and W.S. § 25-5-121(e). No individual shall be admitted temporarily for services for more than seventy-five (75) days.

(yyy) “Time Out” means the restriction of a client, for a reasonable period of time, to a designated area from which the client is not physically prevented from leaving for the purpose of providing the client an opportunity to regain self-control.

(zzz) “Waiting list” means a list of persons who are eligible for services and who have submitted a completed application, but the services are unavailable because of limits imposed by funding for the Center or waiver. The Division maintains the waiting list.

(aaaa) “Waiver” means the Adult Developmental Disabilities Home and Community Based Waiver, Children’s Home and Community Based Waiver, the Acquired Brain Injury Home and Community Based Waiver, Long-Term Care Waiver, Assisted Living Waiver, or any other subsequent waiver under the Medicaid Rules and Department of Health and submitted to and approved by the Centers for Medicare and Medicaid Services pursuant to Section 1915(c) of the Social Security Act.

Section 4. Philosophy.

(a) All persons possess inalienable rights under Constitutions of the United States and the State of Wyoming. Persons with developmental disabilities also possess the rights outlined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. 15001.

(b) The Center provides person centered planning and services based on the Center being the least restrictive environment, most integrated setting, and the informed choice of the clients or legally authorized representative.

(c) It is the philosophy of the Division to develop reasonable and enforceable rules for the provision of services to clients.

(d) This Chapter is designed not only to support the philosophy of services, but to also protect the health, welfare, and safety of clients.

Section 5. Protection of Client Rights.

(a) Any limitation or denial of rights will be reviewed by oversight of a committee or committees established at the Center.

(b) A client, parent, family member, or legally authorized representative may file any complaint of rights violations according to the Center's policy.

(c) Appeals for denial of admission, individual program plan decisions, and discharge may be filed in accordance with Wyoming Life Resource Center Rules, Chapter 2, Administrative Hearings.

Section 6. Professional Standards.

(a) The Center will provide each employee with initial and continuing training that enables the employee to perform his or her duties effectively, efficiently, and competently.

(b) The Center will support training for all staff to gain the competencies needed to do their jobs and enable them to provide needed services to their clients.

(c) Professionals employed or contracted by the Center in a professional position will:

(i) Meet all licensing and certification requirements pertinent to the profession;

(ii) Meet the standards of the profession;

- (iii) Meet all other applicable standards by law;
 - (iv) Participate in on going staff development. Professional staff must receive training in their own discipline to assure adequate delivery of services and be aware of developments in their field; and
 - (v) Provide training to others at the Center.
- (d) A record of all pertinent training will be maintained by the Center for all employees.

Section 7. Data Reporting Process for Demographic Information. Rules and regulations; reports, W.S. § 25-5-105; Standard: Program Documentation, CFR 483.440(e)(1) through (2).

(a) Administrator shall establish data reporting processes and report monthly to the Director the number of persons served by the Center, identified by service category, and the services provided to those persons.

(b) By October 1 of each year, the Director shall report to the Joint Labor, Health and Social services Interim Committee and the Joint Appropriations Interim Committee regarding the number of clients served by the Center, the reason for provision of services to each client at the Center rather than in a community program, the staff to client ratio, and the total State and Federal costs of all services provided to clients, including the current Medicaid reimbursement rate for intermediate care facilities for people with intellectual disabilities.

Section 8. Interpretation of Chapter.

(a) The order in which the provisions of this Chapter appear is not to be construed to mean that any one provision is more or less important than any other provision.

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

Section 9. Superseding Effect. This Chapter supersedes all prior rules or policy statements issued by the Center, including manuals and provider bulletins, which are inconsistent with this Chapter, except Chapter 1, Rules for Individually Selected Service Coordinators of the Rules of the Developmental Disabilities Division, which remains in effect.

Section 10. Severability. If any portion of this Chapter is found to be invalid or unenforceable, the remainder shall continue in full force and effect.

CHAPTER 2

Rules and Regulations for the Wyoming Life Resource Center

Administrative Hearings

Section 1. Authority. This Chapter is promulgated by the Department of Health pursuant to the Life Resource Center Act at W.S. § 25-5-101, *et seq.*, W.S. § 9-2-106(a)(vii), and the Wyoming Administrative Procedure Act at W.S. § 16-3-101, *et seq.*

Section 2. Purpose. This Chapter is adopted to provide uniform procedures for the conduct of contested cases involving services at the Wyoming Life Resource Center. Contested case hearings regarding the services at the Wyoming Life Resource Center shall be conducted in accordance with these rules, unless otherwise provided by Wyoming State statute or Federal law.

Section 3. Notice of Adverse Action. Except as otherwise specified in this rule, the Agency shall provide notice of final action at least ten (10) days before its effective date.

- (a) Notice of the denial of an application shall be effective the date of receipt.
- (b) The Agency may provide notice of final action not later than the effective date if:
 - (i) The Agency has factual information confirming the death of a client or applicant;
 - (ii) The Agency receives a clear written statement signed by a client or applicant that:
 - (A) The client or applicant no longer wishes services;
 - (B) Gives information that requires termination or reduction of services and indicates an understanding that this must be the result of supplying that information; or
 - (C) The client or applicant elected to receive services from another provider or institution.
 - (iii) The client or applicant's whereabouts are unknown and the post office returns agency mail indicating no forwarding address;
 - (iv) The Agency establishes that the recipient was accepted for benefits or is receiving services by another jurisdiction, state, territory, or commonwealth;

(v) The client's physician prescribes a change in the level of medical care; or

(vi) The decision was made due to the health, safety, or welfare of the client.

(c) Except as otherwise provided by these rules, the Agency's notice of final action shall include a statement of:

(i) The reasons for and the evidence supporting the Agency's action;

(ii) The effective date of the action;

(iii) The specific regulations that support the action or the change in Federal or State law that requires the action;

(iv) The right to reconsideration or a hearing;

(v) A contestant's failure to request reconsideration, which shall result in the denial of the contestant's right to request a hearing, where applicable;

(vi) The method of requesting reconsideration or a hearing; and

(vii) The applicant or client's right to be represented by a lawyer, relative, friend, or other spokesperson, including the availability of legal services and the phone number and address of the Protection and Advocacy System, Inc.

Section 4. Reconsideration.

(a) No provision of this section shall prohibit a client or applicant from working with the Agency prior to the Agency's final action.

(b) Reconsideration shall not be available for the Division's final determinations of eligibility or the Center's decision to discharge a client, which shall become a contested case upon request for a hearing.

(c) Clients or applicants may request that the Center reconsider a final decision regarding an adverse action other than the decision to discharge.

(d) A request for reconsideration shall contain:

(i) The name, address, and telephone number of the person requesting reconsideration; and

(ii) The reason for the request, including the nature of the agency's action, order, or determination to be reviewed.

(e) Procedure.

(i) Requests for reconsideration shall be mailed to the Center within ten (10) days after the date the contestant receives notice of the action taken.

(A) The contestant may provide additional information.

(B) The Program Manager's request for any additional information shall be by certified mail, return receipt requested.

(I) The contestant or other party submitting additional information shall submit the requested information, or reason for denial of the request, within twenty (20) days of receipt of the Program Manager's request.

(II) The contestant may, upon a showing of good cause, request additional time to respond to requests for additional information. The Program Manager may grant such requests as the Program Manager deems reasonable and prudent.

(III) The Program Manager may make reasonable inferences adverse to any contestant's failure to provide or denial of a request to provide additional information.

(ii) Upon determination that no additional information is necessary, the receipt of all additional information or expiration of the time for receipt of the same, the Program Manager may request a meeting of necessary persons with the client's representative and the client present.

(A) A client's representative may waive the client's appearance at reconsideration upon a showing of good cause where such good cause is entered into the client's record.

(B) A contestant may request that additional persons be permitted to attend the reconsideration meeting for purposes of presenting additional information.

(C) The Program Manager may ask any employee of the Center involved in the client's treatment, care, or interdisciplinary team to explain the Center's action and allow the contestant opportunity to present argument in support of their position. Presentations may be oral or written.

(iii) The Program Manager shall review the Center's decision, any additional information submitted, and the request of the contestant, and shall send written notice of the Program Manager's final decision by certified mail to the contestant within

forty-five (45) days of the receipt of the contestant's request for reconsideration or the provision of additional information, whichever is later.

(iv) A contestant who fails to request reconsideration as required by this Section may not subsequently request a contested case pursuant to this Chapter.

(v) A contestant who is aggrieved by the reconsideration process may request an administrative hearing involving any matter at issue for reconsideration. Such request must be hand delivered or sent to the Center within thirty (30) days of receipt of the Center's notice of decision on reconsideration.

Section 5. Request for hearing. A request for a hearing shall be mailed or personally delivered, by a contestant, to the Agency Division within thirty (30) days after the date the Notice of Adverse Action, for issues pursuant to this Chapter, is mailed to the recipient.

Section 6. Procedure after request for hearing.

(a) The Agency shall evaluate the request and within thirty (30) days of receipt of the request:

(i) Notify the requesting party that a hearing will be held, the time, date and place of the hearing; or

(ii) Notify the requesting party of the denial of a hearing as requested and the reasons for the denial.

(A) The Division may deny a request for hearing if the action complained of is not an adverse action and/or the request does not meet the requirements of Section 6.

(B) A denial of a request for hearing is a final decision of the Department and may be appealed to district court pursuant to the Wyoming Administrative Procedure Act at W.S. § 16-3-101, *et seq.*, unless otherwise agreed by the contestant and the Agency.

Section 7. Notice of hearing.

(a) In any contested case, the Agency shall afford reasonable notice of the hearing to all parties.

(i) Reasonable notice, as used in this section, shall be not less than twenty (20) days prior to the hearing date.

(ii) The time period may be waived by the contestant individually, or by mutual assent of the parties. All waivers of this requirement shall be entered into the record in writing.

(iii) Notice shall be served personally or by certified mail to the last known address of the party, with a return receipt requested.

(iv) Where the necessary and indispensable parties are comprised of a large class, notice shall be:

(A) Served upon a reasonable number of representatives of the class; or

(B) Published in newspaper(s) of the state in reasonable numbers and times, at a minimum in a paper of general circulation in the county in which the contestant resides, and in at least one (1) newspaper with statewide circulation. In any county in which more than one newspaper is published, notice shall be published in the official paper of the county designated pursuant to W.S. § 18-3-517.

(b) A notice of hearing shall contain the time, place, and nature of the hearing; the legal authority and jurisdiction under which the hearing is being held; the particular sections of the statutes or rules involved; a short and plain statement of the matters asserted; the docket number assigned to the case; the right to be represented by an attorney; and the availability of legal aid.

(i) If the Agency is unable to state the matters in detail at the time notice is served, the initial notice may be limited to a statement of the issues involved, and thereafter, upon request of any party, a more definite and detailed statement shall be furnished within ten (10) days of receipt of that request by the party.

(ii) Upon written request by one of the parties, or upon his own motion, the hearing officer may reschedule the hearing to a time convenient for the parties. A party must submit such request within ten (10) days of receipt of the notice of hearing. When such request is granted, the hearing officer shall reissue the notice in accordance with these rules except that reasonable notice as used in this subsection shall be five (5) days prior to the hearing date.

(A) Only one (1) request for rescheduling of a hearing shall be honored unless, in the hearing officer's judgment, additional changes must be allowed to avoid manifest injustice. Notice shall be issued as provided by subsection (ii).

(B) A hearing shall be held within ninety (90) days of the action which gives rise to the request for a hearing,

(I) Except for decisions regarding discharge from the Center, which will be held within thirty (30) days of a written request; and

(II) Except by agreement of the parties.

Section 8. Location of hearings.

(a) Hearings involving applicants may be held in the county of the recipient's residence or in Cheyenne, Wyoming. Regardless of the location, the parties shall be given the opportunity to appear by telephone, rather than in person.

(b) Hearings involving clients shall be held in Lander, Wyoming, unless otherwise agreed to by the parties.

Section 9. Consolidation of hearings. Upon motion of one of the parties, the hearing officer may consolidate two or more hearings, if the hearings involve the same parties and/or related parties with similar or related issues.

Section 10. Procedural rights of contestant. The contestant must be given the opportunity to:

(a) Examine, at a reasonable time before the date of the hearing and during the hearing:

(i) The content of the contestant's case file; and

(ii) All documents and records to be used by the Agency at the hearing.

(b) Bring witnesses, establish all pertinent facts and circumstances, present an argument, and question or refute any testimony or evidence, including opportunity to confront and cross-examine adverse witnesses.

Section 11. Failure to appear. If a contestant fails to appear at the place, date, and time specified in a notice, the hearing officer may:

(a) Upon good cause, shown prior to the date of the hearing, continue the hearing to a later date and provide proper notice as prescribed in these rules;

(b) Proceed to conduct the hearing without the contestant and dispose of the contested case, unless prohibited by Federal or State statute; or

(c) Deny or dismiss a hearing if:

(i) The contestant withdraws the request in writing; or

(ii) The contestant fails to appear at a scheduled hearing without good cause. Good cause shall be determined by considering circumstances which are beyond the contestant's control.

Section 12. Discovery. All discovery in a contested case shall be governed by the Wyoming Rules of Civil Procedure, as described in W.S. § 16-3-107(g) and (h).

Section 13. Prehearing conference.

(a) At a time on or before the day of the hearing, the hearing officer, on his own or either party's motion, may meet with the parties for a conference to consider simplification of the issues, stipulations and admissions of fact, clarification or limitation of evidence, and any other matters that may expedite the proceeding and assure a just conclusion of the case. The meeting may be held by telephone conference.

(b) Any stipulations, limitations, or agreements made at a prehearing conference shall be recited in the record and shall control the course of the proceedings, unless modified during the hearing to prevent manifest injustice.

Section 14. Disclosure Statements.

(a) In all cases, the parties shall file a short statement disclosing the witnesses to be called, the exhibits to be offered, and containing a concise statement of the party's contentions, and the relief requested.

(b) The hearing officer may order additional disclosures.

(c) Unless otherwise ordered by the hearing officer, disclosure statements shall be filed no later than ten (10) days prior to the date of the hearing.

Section 15. Informal Disposition.

(a) Settlement of a contested case by any informal means (i.e., stipulation, agreed settlement or consent order) shall be allowed at any time, unless precluded by law.

(b) Alternative Dispute Resolution. Any party may request that the matter be set for settlement conference mediation, or other applicable form of alternative dispute resolution.

(i) By agreement, the parties may select a qualified person to conduct the settlement conference or to serve as the mediator. If the parties cannot agree, they may each advise the hearing officer of their recommendations and the hearing officer shall appoint a person to conduct the settlement conference or serve as mediator.

(ii) The settlement conference or mediation shall be conducted pursuant to the procedures established by Wyoming Rules of Civil Procedure, Rule 40,

and otherwise by the procedures prescribed by the person appointed to conduct the settlement conference or serve as the mediator.

(iii) The hearing officer may, where good cause is shown by a party opposing alternative dispute resolution, deny the request to set the matter for alternative dispute resolution pursuant to this section.

(iv) Alternate Dispute Resolution shall not be used to deny or delay a contestant's right to a hearing under these Rules or to deny any other rights afforded under these Rules or otherwise required by law.

Section 16. Hearing officer.

(a) The Director shall appoint a hearing officer to preside over contested case hearings on a case-by-case basis or for a scheduled period of time, or the matter may be referred to the State of Wyoming, Office of Administrative Hearings (OAH), or its successor, pursuant to the rules of the OAH, as the Director sees fit.

(b) The Department's hearing officer may be an employee, or other individual determined by the Director to be qualified to serve in such a capacity, who has not taken part in the investigation, preparation, or earlier disposition of the case to be heard.

(i) The hearing officer shall withdraw from consideration of a case at any time he or she deems himself or herself disqualified, providing there are other qualified presiding officers available to act. Withdrawal shall be made in writing to the Director.

(ii) Any party may request in writing the Director remove and replace the hearing officer in a contested case. This request must be accompanied by a statement and affidavits, setting forth the alleged grounds for disqualification. The Director may deny a party's request for removal and shall issue a written statement explaining the grounds for his denial, which shall be made a part of the record. If the request is granted, the Director shall appoint a new hearing officer as soon as is practicable.

(iii) The contestant may object to the appointment of the hearing officer in the record at the hearing. The objection shall set forth the alleged grounds for disqualification.

(c) The hearing officer shall have all powers necessary to conduct a fair and impartial hearing, including, but not limited to, the following authority:

(i) To administer oaths and affirmations;

(ii) To subpoena witnesses and require the production of any books, papers, or other documents relevant or material to the inquiry;

Section 19;

- (iii) To rule upon offers of proof and relevant evidence;
- (iv) To provide for discovery and determine its scope;
- (v) To regulate the order of procedure of the hearing pursuant to issues;
- (vi) To hold conferences for the settlement or simplification of the issues;
- (vii) To dispose of procedural requests or similar matters;
- (viii) To take any other action authorized by the Department's rules; and
- (ix) To make proposed findings of facts and conclusions of law pursuant to Section 20.

(d) Failure or refusal to appear or obey orders of the hearing officer may result in the sanctions provided in W.S. § 16-3-107(c) and (f).

(e) Except to the extent required for the disposition of ex parte matters authorized by law, the hearing officer shall not consult with any individual or party on any fact at issue except as allowed in W.S. § 16-3-111.

Section 17. Evidence and testimony.

(a) Burden of proof. The Agency shall have the burden of proof, unless otherwise provided by law. The burden shall be to prove by a preponderance of the evidence that the adverse action is not arbitrary and capricious, or otherwise in violation of law.

(b) Admissibility of evidence.

(i) The parties shall be entitled to present any oral or documentary evidence, submit rebuttal evidence, and conduct cross-examinations as may be required for a full disclosure of the facts. All documentary or physical evidence submitted for consideration shall be marked as exhibits. Agency's exhibits shall be marked by letters of the alphabet beginning with "A." Contestant's exhibits will be marked by numbers beginning with "1."

(ii) The hearing officer shall allow any oral or documentary evidence, except irrelevant, immaterial, or unduly repetitious evidence.

(c) Objections.

(i) The grounds for objection to any evidentiary ruling by the hearing officer shall be briefly stated. Rulings on all objections shall appear in the record. Only those objections made before the hearing officer, or specifically stipulated to by both parties, may be relied on in a subsequent proceeding.

(ii) Formal exception to an adverse ruling is not required.

(d) Privileged and confidential information.

(i) Any privilege at law shall be recognized by the hearing officer in considering evidence.

(ii) No employee of the Department shall be compelled to testify or to divulge information which is confidential or privileged at law and which is contained within the records of the Department or acquired within the scope of his employment except as provided in W.S. § 16-3-107.

(e) The hearing officer may take official notice of any material fact not appearing in evidence in the record that is of the nature of traditional matters of judicial notice or within the special technical knowledge or files of the Department. Parties shall be given an opportunity to contest matters officially noticed prior to a final decision by the Department in accordance with W.S. § 16-3-108.

(f) Each witness who is present to give testimony must identify himself by stating his name and address, indicate on whose behalf he will testify, and be administered the following oath by the hearing officer: "Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth?"

(g) Only a party or their attorney may examine or cross-examine witnesses.

(h) The hearing officer may examine witnesses.

Section 18. Representation.

(a) A contestant has the right to represent herself or to be represented by an attorney authorized to practice pursuant to the rules of the Supreme Court of Wyoming. If the contestant is represented by an attorney, payment of attorney's fees and costs are the responsibility of the contestant. The Agency is not responsible for payment.

(b) Agency may request the Attorney General to assist in contested case hearings to the extent required by W.S. § 16-3-112(c).

Section 19. Order of procedure.

(a) As nearly as practicable, the following order of procedure shall be followed:

(i) The hearing officer shall announce the hearing is open and call by docket number and title of the case to be heard. The hearing officer shall ask if parties are ready to proceed and will allow parties an opportunity to dispose of any preliminary matters.

(ii) The hearing officer shall administer the oath to all witnesses who will present testimony.

(iii) The hearing officer may, in his discretion, allow the hearing to proceed in an order other than that prescribed here.

(iv) Opening statements may be made beginning with the party with the burden of proof, and then followed by the other party.

(v) The party with the burden of proof shall offer evidence first, followed by the other party. The party which proceeded first may then offer rebuttal evidence. Parties may cross-examine.

(vi) No testimony shall be received by the hearing officer unless given under oath/affirmation administered by the hearing officer.

(vii) Closing statements may be made beginning with the party holding the burden of proof, then the other party, followed by the party with the burden of proof in response.

(viii) The hearing officer may limit the time for opening and closing statements.

(ix) After all parties have had an opportunity to be heard, the hearing officer shall excuse all witnesses and close the evidence.

(x) Evidence may be reopened only upon a motion by a party to the proceeding on a showing of good cause.

(b) All parties or other interested persons may submit legal briefs after the close of the hearing. The hearing officer shall allow a reasonable time of not less than ten (10) working days from the date of hearing for preparation of the briefs. The time may be extended upon agreement between the parties with the approval of the hearing officer.

Section 20. Decisions.

(a) The hearing officer shall propose a final determination, including findings of fact and conclusions of law, within twenty (20) working days of the close of the hearing and forward them to the Director for final determination. This time may be extended if the parties or other interested persons are to submit briefs, but may not be

extended by more than ten (10) working days, unless the parties stipulate in writing or on the record at the hearing to a later date.

(i) Within ten (10) working days of the close of the hearing, or such additional time as the hearing officer may allow, each party shall be allowed to file with the hearing officer any proposed findings of fact and conclusions of law, and a supporting brief. Such proposals and briefs shall be served on all other parties.

(ii) Within ten (10) working days after the issuance of the hearing officer's proposed findings of fact and conclusions of law, any of the parties may submit exceptions. Such exceptions shall be filed with the Director and served on all other parties.

(b) Within ten (10) working days after the period for submitting exceptions pursuant to Subsection (a)(ii), the Director shall make and enter into the record the final decision. The final decision shall be served on all parties to the proceedings. The final decision shall include:

(i) A statement of the findings of fact and conclusions of law; and

(ii) The appropriate rule, order, relief, or denial thereof. The decision shall be based upon the contested case record or any portion stipulated to by the parties. The decision shall include facts officially noticed and relief upon, as provided by W.S. § 16-3-108(d). It shall be made on the basis of a preponderance of evidence contained in the record.

(c) Final decisions of the Department shall be effective immediately after being entered in the record and served upon all parties. Service shall be personal or by mailing a copy of any decision or order to each party or the party's attorney of record within a reasonable time after the entry of the decision into the record.

Section 21. Appeals. Appeals from a final decision of the Department shall be in accordance with W.S. § 16-3-114 and Rule 12 of the Wyoming Rules of Appellate Procedure, except as otherwise agreed by the parties.

Section 22. Transcripts and record.

(a) A contested case proceeding is a public record pursuant to the Public Records Act. When a contested case is set for hearing, the Agency shall assign a docket number to the case and enter the case with its number and date of filing on a docket. The Agency shall maintain a separate file for each docketed case in which all pleadings, transcriptions, correspondence, papers, and exhibits for that case shall be maintained. All such items shall have noted thereon the assigned docket number and the date of filing.

(b) The Agency shall record all contested case proceedings electronically through the use of a qualified court reporter, or any other appropriate means determined

by the agency or the hearing officer. Transcriptions of oral proceedings or written transcripts of a witness's testimony may be obtained by contestant from the Agency upon payment of the cost.

(c) If the contestant can demonstrate that he is indigent and that he cannot effectively perfect his appeal without such transcription, the Department may waive the payment of the fee.

(d) The disclosure of health information in proceedings initiated under this Chapter shall comply with 45 CFR 164512(e) and W.S. § 25-5-131.

(e) The record of the hearing shall contain:

(i) All formal or informal notices, pleadings, motions, and intermediate rulings;

(ii) Evidence received or considered, including matters officially noticed;

(iii) Questions and offers of proof, objections and rulings;

(iv) Any proposed findings of fact and conclusions of law;

(v) The proposed final determination, including findings of fact and conclusions of law of the hearing officer;

(vi) Any exceptions to the hearing officer's proposed final determination, including findings of fact and conclusions of law;

(vii) The Director's final decision; and

(viii) A stipulation resolving the matter shall not be part of the record unless otherwise agreed to by the parties, including HIPAA information agreed to by the parties that would be kept in a confidential part of the record.

Section 23. Interpretation of Chapter.

(a) The order in which the provisions of this Chapter appear is not to be construed to mean that any one provision is more or less important than any other provision.

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

Section 24. Superseding effect. This Chapter supersedes all prior rules or policy statements issued by the Department, including provider manuals and provider bulletins, which are inconsistent with this Chapter.

Section 25. Severability. If any portion of these rules is found to be invalid or unenforceable, the remainder shall continue in full force and effect.

CHAPTER 3

Rules and Regulations for the Wyoming Life Resource Center

Canyons Intermediate Care Facility for People with Intellectual Disabilities

Section 1. Authority. This Chapter is promulgated by the Department of Health pursuant to the Life Resource Center Act, W.S. § 25-5-103(i), which authorizes the Center to provide Intermediate Care Facility for People with Intellectual Disabilities services and the Wyoming Administrative Procedure Act at W.S. § 16-3-101, *et seq.* The Department of Health licenses these services pursuant to W.S. § 35-2-901(a)(xiv), and in compliance with the Code of Federal Regulations (42 CFR 440.150-483.480(d)(5)).

Section 2. Intermediate Care Facility for People with Intellectual Disabilities Conditions of Federal Participation. To be certified to receive Federal funding as an Intermediate Care Facility for People with Intellectual Disabilities, the following standards are established in Federal regulations and adhered to by the Canyons Intermediate Care Facility for People with Intellectual Disabilities.

(a) 42 CFR 483.410(a) through (e), Condition of Participation: Governing body. Standards:

- (i) Governing body
- (ii) Compliance with Federal, State and local laws
- (iii) Client records
- (iv) Services provided under agreements with outside sources
- (v) Licensure

(b) 42 CFR 483.420(a) through (d), Condition of Participation: Client protections. Standards:

- (i) Protection of clients' rights
- (ii) Client finances
- (iii) Communication with clients, parents, and legally authorized representatives
- (iv) Staff treatment of clients

(c) 42 CFR 483.430(a) through (e), Condition of Participation: Facility staffing. Standards:

- (i) Qualified intellectual disability professional

- (ii) Professional program services
- (iii) Facility staffing
- (iv) Direct care residential living unit staff
- (v) Staff training program

(d) 42 CFR 483.440(a) through (f), Condition of Participation: Active treatment services. Standards:

- (i) Active treatment
- (ii) Admissions, transfers, and discharges
- (iii) Individual program plan
- (iv) Program implementation
- (v) Program documentation
- (vi) Program monitoring and change

(e) 42 CFR 483.450(a) through (e), Condition of Participation: Client behavior and facility practices. Standards:

- (i) Facility practices-conduct toward clients
- (ii) Management of inappropriate client behavior
- (iii) Time-out rooms
- (iv) Physical restraints
- (v) Drug usage

(f) 42 CFR 483.460(a) through (n), Condition of Participation: Healthcare services. Standards:

- (i) Physician service
- (ii) Physician participation in the individual program plan
- (iii) Nursing services
- (iv) Nursing staff
- (v) Dental services

- (vi) Comprehensive dental diagnostic services
- (vii) Comprehensive dental treatment
- (viii) Documentation of dental services
- (ix) Pharmacy services
- (x) Drug regimen review
- (xi) Drug administration
- (xii) Drug storage and recordkeeping
- (xiii) Drug labeling
- (xiv) Laboratory services

(g) 42 CFR 483.470(a) through (l), Condition of Participation: Physical environment. Standards:

- (i) Client living environment
- (ii) Client bedrooms
- (iii) Storage space in bedrooms
- (iv) Client bathrooms
- (v) Heating and ventilation
- (vi) Floors
- (vii) Space and equipment
- (viii) Emergency plan and procedures
- (ix) Evacuation drills
- (x) Fire protection
- (xi) Paint
- (xii) Infection control

(h) 42 CFR 483.480(a) through (d), Condition of Participation: Dietetic services. Standards:

- (i) Food and nutrition services
- (ii) Meal services
- (iii) Menus
- (iv) Dining areas and service

Section 3. Purpose. This Chapter is being adopted to:

- (a) Provide admission and discharge processes;
- (b) Establish eligibility criteria for applicants to the Canyons program at the Center;
- (c) Prescribe the Individual Program Plan process; and
- (d) Define active treatment services.

Section 4. Eligibility and Application Process for Services.

(a) An applicant for residential service in the Canyons program shall first make application to the Division for services per Wyoming Medicaid Rules for the Adult Developmental Disabilities Home and Community Based Waiver or the Children's Developmental Disabilities Home and Community Based Waiver. An applicant who has already qualified for one of these two waiver services shall present documentation of qualification.

(b) The Division shall provide applicants and their families or legally authorized representatives a written resource guide regarding services for individuals with developmental disabilities in the State of Wyoming.

(b) Eligibility under this Chapter is limited to persons who complete the application process and who meet the following requirements:

(i) A diagnosis of developmental disability, as determined by a psychologist and as defined in federal law, 42 U.S.C. 15002(8), a severe, chronic disability of an individual that:

(A) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(B) Is manifested before the individual attains the age of twenty-two (22) years;

(C) Is likely to continue indefinitely;

(D) Results in substantial functional limitations in three (3) or more of the following areas of major life activity:

- (I) Self-care;
- (II) Receptive and expressive language;
- (III) Learning;
- (IV) Mobility;
- (V) Self-direction;
- (VI) Capacity for independent living; and
- (VII) Economic self-sufficiency.

(E) Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

(ii) A diagnosis of a related condition, as determined by a physician and functional limitations verified by a psychologist;

(iii) An Inventory for Client and Agency Planning services score equal to or less than seventy (70); or

(iv) When the Inventory for Client and Agency Planning score is more than seventy (70), the applicant must also have a deficit in three (3) or more of the six (6) domains noted in this section.

(c) If the applicant is eligible for Division services the applicant:

(i) Will be funded for services for a home and community based waiver;

(ii) May pursue admission to the Center;

(iii) May pursue emergency services through Medicaid Rules on home and community based waivers;

(v) Will be placed on the waiting list for services; or

(vi) May pursue temporary services at the Center.

Section 5. Admission to the Center.

(a) When an applicant notifies the Division that he chooses residential services from the Center, an admission request form may be obtained from the Center or the Division. The admission request form will be completed by the applicant or legally authorized representative and submitted to the Center.

(b) If a current waiver participant chooses to request services at the Center, an admission request form for Center services will be completed by the applicant or legally authorized representative and submitted to the Center. The Center staff will forward the request to the appropriate waiver representative.

(c) The Center staff shall receive the admission request form and coordinate with the applicant and other appropriate sources to obtain information requests, appropriate medical, demographic and programmatic information pertinent to care and services required by the applicant. The applicant or his legally authorized representative shall be responsible for submitting the admission request form and all required documentation to the Center staff.

(d) An admission request form is valid for six (6) months from the date of submission to the Center. After that time, if necessary documentation has not been received, the applicant must reapply.

(e) When all of the required documentation has been received, Center staff shall notify the applicant the formal thirty (30) day review will begin, and forward the completed application packet to the Administrator and the screening team.

(f) Membership of the screening team is determined by the Director. The preadmission screening and assessment shall be completed within thirty (30) days of receipt of completed application.

(i) The screening team shall review the applicant's information.

(ii) The screening team may assign a preliminary interdisciplinary team to include Division waiver staff for the purpose of conducting further assessments and evaluations. The preliminary interdisciplinary team may visit the applicant to complete preliminary assessments, including an assessment regarding the least restrictive, most appropriate and most integrated placement, and submit the report to the screening team.

(iii) The screening team shall conduct a final review of the applicant's information, including any report(s) submitted by a preliminary interdisciplinary team.

(vi) A recommendation shall be made to the Administrator in writing.

(g) The Administrator shall review the screening team's recommendations and make a determination regarding the request for placement. The Administrator shall notify the applicant, legally authorized representative, and referring agency representative (if applicable) in writing, regarding placement within ten (10) days after receiving the screening team's recommendation.

(h) If the applicant is denied admission, the notice of denial will be consistent with Wyoming Life Resource Center Rules, Chapter 2, Administrative Hearings.

(i) If the applicant is approved for admission, a Center interdisciplinary team will be assigned.

(j) A transition meeting will be scheduled by Center staff with the applicant, the applicant's legally authorized representative, and a representative of the Division waiver staff and current provider, if applicable, to coordinate transition to the Center.

(k) The Center Program Manager or designee will provide the client or legally authorized representative a copy of her rights after arriving at the Center.

Section 6. Initial Individual Program Plan Development.

(a) Each client admitted to the Center shall have on file at the Center an individual program plan. The individual program plan shall be prepared by an interdisciplinary team within thirty (30) days of admission for residential services under the supervision of the Program Manager. The plan shall be reviewed by the interdisciplinary team for appropriateness and feasibility of discharge or transition to another level of service thirty (30) days after implementation of the plan, at the end of each quarter for the first year, and annually thereafter.

(b) A client shall be determined no longer eligible when he:

(i) Does not meet eligibility when re-tested;

(ii) No longer meets the requirements of an Intermediate Care Facility for People with Intellectual Disabilities; or

(iii) Changes residence to another state.

Section 7. Development of the Annual Individual Program Plan by an Interdisciplinary Team.

(a) The purpose of the interdisciplinary team process is to provide team members with the opportunity to review and discuss information and recommendations

relevant to the client's needs and to reach decisions as a team, rather than individually, on how best to address those needs, including transfer or discharge to another service.

(b) The interdisciplinary team is comprised of the client, legally authorized representative, and those individuals, professionals, and paraprofessionals who possess the knowledge, skills, and expertise necessary to accurately identify the comprehensive array of the client's needs and design a program that is responsive to those needs. The number of individuals who comprise the interdisciplinary team is based upon each client's individual needs and may vary.

(c) To ensure informed choice, placement options are reviewed annually, or anytime by request, with the client and/or legally authorized representative. The plan developed by the interdisciplinary team will include documentation of appropriateness of placement at the Center or at any other placement recommended.

(d) For a school-aged client, the home school district develops the individual education plan and the Center will coordinate the individual program plan process.

Section 8. Individualized Active Treatment Services. Each client must receive a continuous active treatment program, which includes aggressive and consistent implementation of a program of specialized and generic training, treatment, health services, and related services to acquire the behaviors necessary for the client to function with as much self-determination and independence as possible. The active treatment program is pervasive, systematic, and sufficient in scope to ensure that individuals are appropriately served by assessing each individual client's needs in the following areas:

(a) **Physical Development and Health:** The client's developmental history, results of the physical examination conducted by a licensed physician, physician assistant, or nurse practitioner, health assessment data (including a medication and immunization history), which may be compiled by a nurse, and skills normally associated with the monitoring and supervision of the client's own health status, and administration and/or scheduling of the client's own medical treatments.

(b) **Nutritional Status:** The determination of appropriateness of diet, adequacy of total food intake, and the skills associated with eating.

(c) **Sensorimotor Development:** The development of perceptual skills that are involved in observing the environment and making sense of it. Motor development includes those behaviors that primarily involve muscular, neuromuscular, or physical skills and varying degrees of physical dexterity. Assessment data identifies the extent to which corrective, orthotic, prosthetic, or support devices would impact the functional status of development.

(d) **Affective (Emotional) Development:** The development of behaviors that relate to his or her interests, attitudes, values, and emotional expressions.

(e) Speech and Language (Communication Development): The development of both verbal and nonverbal and receptive and expressive communication skills. Assessment data identifies the appropriate intervention strategy to be applied and which, if any, augmentative or assistive devices will improve communication and functional status.

(f) Auditory Functioning: The extent to which a person can hear and to the maximum use of residual hearing, if a hearing loss exists, and whether or not the client will benefit from the use of amplification, including a hearing aid or a program of amplification. Assessment may include teaching techniques for conducting the assessment or the use of electrophysiological techniques.

(g) Cognitive Development: The development of those processes by which information received by the senses is stored, recovered, and used. It includes the development of the processes and abilities involved in memory, reasoning, and problem solving.

(h) Social Development: The formation of self-help, recreation and leisure, and interpersonal skills that enable a client to establish and maintain appropriate roles and fulfilling relationships with others.

(i) Adaptive Behaviors or Independent Living Skills: The effectiveness or degree with which clients meet the standards of personal independence and social responsibility expected of their age and cultural group. Independent living skills include, but are not limited to, such things as meal preparation, doing laundry, bed making, and budgeting. Assessment may be performed by anyone trained to do so.

(j) Vocational (Prevocational) Development, as applicable: The work interests, work skills, work attitudes, work-related behaviors, and present or future employment options.

Section 9. Discharge.

(a) Transfer or discharge occurs only when:

(i) The Center cannot meet the individual's needs;

(ii) The individual no longer requires an active program in an Intermediate Care Facility for People with Intellectual Disabilities setting;

(iii) The individual or his legally authorized representative chooses for him to reside elsewhere; or

(iv) A determination is made, by testing or review, that another level of service or living situation, either internal or external, would be more beneficial.

(b) The Center will provide a reasonable time to prepare the client and her legally authorized representative for the transfer or discharge (except in emergencies).

(c) At the time of discharge, the Center shall:

(i) Develop a final summary of the client's development, behavioral, social, health, and nutritional status, and with the consent of the client or legally authorized representative, provide a copy to authorized persons and agencies.

(ii) Provide a post-discharge plan of care that will assist the client in adjusting to the new living environment.

(d) The Administrator shall formally discharge the client with written notification to the client and legally authorized representative and the court, if necessary.

(e) If a client or legally authorized representative chooses to change to another Division service provider, he shall inform Center staff of the decision. Center staff shall then contact the Division waiver staff and begin the process outlined in Wyoming Medicaid Rules for home and community based services.

CHAPTER 4

Rules and Regulations for the Wyoming Life Resource Center

Visions Program for People with Acquired Brain Injuries

Section 1. Authority. This Chapter is promulgated by the Department of Health pursuant to the Life Resource Center Act at W.S. § 25-5-103(ii), and the Wyoming Administrative Procedure Act at W.S. § 16-3-101, *et seq.*

Section 2. Purpose. This Chapter is being adopted to:

- (a) Provide admission and discharge processes;
- (b) Establish eligibility criteria for Acquired Brain Injury applicants to the Center;
- (c) Prescribe the Individual Program Plan process; and
- (d) Define rehabilitation services.

Section 3. Eligibility and Application Process for Services.

(a) An applicant for residential services in the Visions Program shall first make application to the Division for services per the Wyoming Medicaid Rules for Acquired Brain Injury Waiver. An applicant already determined eligible for this waiver service shall present documentation of qualification.

(b) The Division shall provide applicants and their families or legally authorized representatives a written resource guide regarding services for individuals with acquired brain injuries in the state of Wyoming.

(c) Eligibility under this Chapter is limited to persons who have completed the Division application process or who meet the following requirements:

(i) Medical determination. In order to meet the medical determination criteria for admission, an applicant shall meet the acquired brain injury criteria as determined by the medical team.

(ii) Neuropsychological or other evaluations confirmation. The neuropsychological or other evaluations confirm that the applicant meets the following criteria by attaining:

(A) A score of forty-two (42) or more on the Mayo Portland Adaptability Inventory;

(B) A score of forty (40) or less on the California Verbal Learning Test II Trials 1-5 T;

(C) A score of four (4) or more on the Supervision Rating Scale; or

(D) An Inventory for Client and Agency Planning services scores equal to or less than seventy (70).

(d) If the applicant is clinically eligible for Acquired Brain Injury Waiver services, the applicant may:

(i) Be funded for services for a home and community based waiver;

(ii) Pursue admission to the Center;

(iii) Pursue emergency services through Medicaid Rules for Acquired Brain Injury, Home and Community Based Waiver; or

(iv) Be placed on the Division's waiting list for services.

Section 4. Admission to the Center.

(a) When an applicant notifies the Division that she chooses residential services from the Center, an admission request form may be obtained from the Center or Division. The admission request form will be completed by the applicant or legally authorized representative and submitted to the Center.

(b) If a current waiver participant chooses to request services at the Center, an admission request form for Center services will be completed by the applicant or legally authorized representative and submitted to the Center. The Center staff will forward the request to the appropriate waiver representative.

(c) The Center staff shall receive the admission request form and coordinate with the applicant and other appropriate sources to obtain information requests, appropriate medical, demographic, and programmatic information pertinent to care and services required by the applicant. The applicant or his legally authorized representative shall be responsible for submitting the admission request form and all required documentation to the Center staff.

(d) An admission request form is valid for six (6) months from the date of submission. After that time, if necessary documentation has not been received, the applicant must reapply.

(e) When all of the required documentation has been received, Center staff shall notify the applicant that the formal thirty (30) day review period will begin and forward the completed application packet to the Administrator and the screening team.

(f) Membership of the screening team is determined by the Director. The preadmission screening and assessment shall be completed within thirty (30) days of receipt of completed application.

(i) The screening team shall review the applicant's information.

(ii) The screening team may assign a preliminary interdisciplinary team to include Division waiver staff for the purpose of conducting further assessments and evaluations. The preliminary interdisciplinary team may visit the applicant to complete preliminary assessments, including an assessment regarding the least restrictive, most appropriate, and most integrated placement, and submit the report to the screening team.

(iii) The screening team shall conduct a final review of the applicant's information, including any report(s) submitted by a preliminary interdisciplinary team.

(iv) A recommendation shall be made to the Administrator in writing.

(g) The Administrator shall review the screening team's recommendations and make a determination regarding the request for placement. The Administrator shall notify the applicant, legally authorized representative, and referring agency representative (if applicable) in writing, regarding placement within ten (10) days after receiving the screening team's recommendation.

(i) If the applicant is denied admission, notice of denial will be consistent with Wyoming Life Resource Center Rules, Chapter 2, Administrative Hearings.

(j) If the applicant is approved for admission, a Center interdisciplinary team will be assigned.

(k) A transition meeting will be scheduled by Center staff with the applicant, the applicant's legally authorized representative, and a representative of the Division waiver staff and current provider, if applicable, to coordinate transition to the Center.

(l) The Center Program Manager or designee will provide the client or legally authorized representative a copy of his rights after arriving at the Center.

Section 5. Initial Individual Program Plan Development.

(a) Each client admitted to the Center shall have on file at the Center an individual program plan. The individual program plan shall be prepared by an interdisciplinary team within thirty (30) days of admission for residential services under

the supervision of the program manager. The plan shall be reviewed by the interdisciplinary team for appropriateness and feasibility of discharge or transition to another level of service thirty days (30) days after implementation of the plan, at the end of each quarter for the first year, and annually thereafter.

- (b) A client shall be determined no longer eligible when she:
 - (i) Does not meet eligibility when re-tested; or
 - (ii) Changes residence to another state.

Section 6. Development of the Annual Individual Program Plan by an Interdisciplinary Team.

(a) The purpose of the interdisciplinary team process is to provide team members with the opportunity to review and discuss information and recommendations relevant to the client's needs and to reach decisions as a team, rather than individually, on how best to address those needs, including transfer or discharge to another service.

(b) The interdisciplinary team is comprised of the client, or legally authorized representative and those individuals, professionals, and paraprofessionals who possess the knowledge, skills, and expertise necessary to accurately identify the comprehensive array of the client's needs and design a program that is responsive to those needs. The number of individuals who comprise the interdisciplinary team is based upon each client's individual needs and may vary.

(c) To ensure informed choice, placement options are reviewed annually, or anytime by request, with the client and/or legally authorized representative. The plan developed by the interdisciplinary team will include documentation of appropriateness of placement at the Center or at any other placement recommended.

(d) For a school-aged client, the home school district develops the individual education plan and the Center will coordinate the individual program plan process.

Section 7. Individualized Rehabilitation Services. Each client must receive a continuous rehabilitation treatment program, which includes aggressive and consistent implementation of a program of specialized and generic training, treatment, health services, and related services to acquire the behaviors necessary for the client to function with as much self determination and independence as possible.

The rehabilitation treatment program is pervasive, systematic, and sufficient in scope to assure that individuals are appropriately served by assessing each individual client's needs in the following areas:

(a) **Physical History and Health:** The client's pre-morbid and post-injury history, results of the neuropsychological evaluation conducted by a licensed

neuropsychologist, results of the physical examination conducted by a licensed physician, physician assistant, or nurse practitioner, health assessment data (including a medication and immunization history), which may be compiled by a nurse, and skills normally associated with the monitoring and supervision of the client's own health status, and administration and or scheduling of the client's own medical treatments.

(b) Nutritional Status: The determination of appropriateness of diet, adequacy of total food intake, and the skills associated with eating.

(c) Sensorimotor: The retraining of perceptual skills that are involved in observing the environment and making sense of it. Motor skills include those behaviors that primarily involve: muscular, neuromuscular, or physical skills and varying degrees of physical dexterity. Assessment data identifies the extent to which corrective, orthotic, prosthetic, or support devices would impact the functional status.

(d) Affective (Emotional) Rehabilitation: The restoration of behaviors that relate to his or her interests, attitudes, values, and emotional expressions.

(e) Speech and Language: The restoration of both verbal and nonverbal and receptive and expressive communication skills. Assessment data identifies the appropriate intervention strategy to be applied, and which, if any, augmentative or assistive devices will improve communication and functional status.

(f) Auditory Functioning: The extent to which a person can hear and to the maximum use of residual hearing, if a hearing loss exists, and whether or not the client will benefit from the use of amplification, including a hearing aid or a program of amplification. Assessment may include teaching techniques for conducting the assessment or the use of electrophysiologic techniques.

(g) Cognitive Rehabilitation: The restoration of those processes by which information received by the senses is stored, recovered, and used. It includes the retraining of the processes and abilities involved in memory, reasoning, and problem solving.

(h) Social Rehabilitation: The restoration of self-help, recreation and leisure, and interpersonal skills that enable a client to establish and maintain appropriate roles and fulfilling relationships with others.

(i) Adaptive Behaviors or Independent Living Skills: The effectiveness or degree with which clients meet the standards of personal independence and social responsibility expected of their age and cultural group. Independent living skills include, but are not limited to, such things as meal preparation, doing laundry, bed making and budgeting.

(j) Vocational (Prevocational) Retraining, as applicable: The work interests, work skills, work attitudes, work-related behaviors, and present and future employment options.

Section 8. Discharge.

- (a) Transfer or discharge occurs only when:
- (i) The Center cannot meet the individual's needs;
 - (ii) The individual or her legally authorized representative chooses for her to reside elsewhere; or
 - (iii) A determination is made, by testing or review, that another level of service or living situation, either internal or external, would be more beneficial.
- (b) The Center will provide a reasonable time to prepare the client and his legally authorized representative for the transfer or discharge (except in emergencies).
- (c) At the time of discharge, the Center must:
- (i) Develop a final summary of the client's behavioral, social, health, and nutritional status, and with the consent of the client or legally authorized representative, provide a copy to authorized persons and agencies; and
 - (ii) Provide a post-discharge plan of care that will assist the client to adjust to the new living environment.
- (d) The Administrator shall formally discharge the client with written notification to the client and legally authorized representative and the court, if necessary.
- (e) If a client or legally authorized representative chooses to change to another Division service provider, he shall inform Center staff of the decision. Center staff shall then contact the Division waiver staff and begin the process outlined in Wyoming Medicaid Rules for home and community based waiver services.

CHAPTER 5

Rules and Regulations for the Wyoming Life Resource Center

Temporary Services

Section 1. Authority. This Chapter is promulgated by the Department of Health pursuant to W.S. § 25-5-129, the Life Resource Center Act at W.S. § 25-5-129, Duties and Powers of Director of Department at W.S. § 9-2-106, and the Wyoming Administrative Procedure Act at W.S. § 16-3-101, *et seq.*

Section 2. Purpose. This Chapter is adopted to provide procedures for the Administrator to admit individuals for temporary services.

Section 3. Temporary Services Options. The Administrator may admit persons for residential services to the Center for the temporary receipt of services for up to seventy-five (75) days upon a determination that a less restrictive environment is appropriate but unavailable to allow:

- (a) Evaluation for service needs;
- (b) Recovery from medical procedures requiring follow-up care at the Center;
- (c) The provision of appropriate services following allegations that the person admitted for services may be a victim of abuse or neglect;
- (d) Appropriate transitioning between other service environments; or
- (e) The provision of disability, therapeutic, and assistive technology services for persons with a disability.

Section 4. Admission for Temporary Services. Pursuant to W.S. § 25-5-129, Admission procedures required by W.S. §§ 25-5-114 through 25-5-115 and W.S. § 25-5-121(e) are not required. The process for Admission is:

- (a) During the course of determining the Eligibility and Application Process for Services, as outlined in the Wyoming Life Resource Center's Rule, Chapter 3, Section 2 or Wyoming Life Resource Center's Rule, Chapter 4, Section 2, and the Division staff determines there are factors outlined in the previous Section, the information will be referred to the Administrator for potential placement at the Center.
- (b) For an applicant already receiving waiver services, the participant, legally authorized representative or community team may request the Division to consider temporary services at the Center.

(c) The applicant or legally authorized representative will complete and submit a temporary services request form to the Center for temporary services consideration.

(d) The Administrator shall make a determination in writing whether to provide temporary services at the Center.

(e) The Center staff shall receive the admission request form and coordinate with the applicant and other appropriate sources to obtain information requests, appropriate medical, demographic, and programmatic information pertinent to care and services required by the applicant. The applicant or their legally authorized representative shall be responsible for submitting the admission request form and all required documentation to the Center staff.

(f) Reimbursement for services may be pursued as determined by the Department rules on collection of charges.

(g) The Center will provide an appropriate program plan for clients receiving temporary services.

(h) If additional services are requested, procedures in Wyoming Life Resource Center Rules, Chapter 3, Section 5, or Chapter 4, Section 4, will be followed.

Section 5. Discharge.

(a) A transition plan shall be developed.

(b) After placement at the Center, discharge planning for alternative placement will be initiated.

CHAPTER 6

Rules and Regulations for the Wyoming Life Resource Center

Non-Residential Services

Section 1. Authority. This Chapter is promulgated by the Department of Health pursuant to W.S. § 25-5-103(a)(iii) and (iv), and the Wyoming Administrative Procedure Act at W.S. § 16-3-101, *et seq.*

Section 2. Purpose. This Chapter is adopted to provide disability, therapeutic and assistive technology services for persons with disability and training for state employees, other service providers, and caregivers on disability, medical, developmental, and therapy services.

Section 3. Outpatient and outreach disability, therapeutic and assistive technology services.

(a) The services that may be provided through the Center's outpatient and outreach program, which may meet the needs of the individual with a disability are:

(i) Diagnostic and professional assessment services; and

(ii) Medical, dental, behavioral, therapy and assistive technology services.

(b) These services may be provided at the Center or at other locations.

(c) Division waiver staff, providers, individuals, or their legally authorized representative may request specific services. The Administrator and Program Manager may authorize these requests. Services will be provided based on appropriateness and availability of personnel and resources.

Section 4. Training Services. The Center may provide conferences, seminars, and training for state employees, other services providers and caregivers, and individuals with disabilities regarding disability, medical, developmental, and therapy services.

(a) These services may be provided at the Center or at other locations.

(b) Any interested party may request specific services. The Center may respond to these requests. Services will be provided based on appropriateness and availability of personnel and resources.