

UTAH DEPARTMENT OF HEALTH AND HUMAN SERVICES  
DIVISION OF INTEGRATED HEALTHCARE  
NEW CHOICES WAIVER PROGRAM

SELF-ADMINISTERED SERVICES  
EMPLOYEE CODE OF CONDUCT AND  
CERTIFICATION OF UNDERSTANDING AND COMPLIANCE

## I. STATEMENT OF PURPOSE

The New Choices Waiver (NCW) adopts this Code of Conduct to:

- A. Protect its participants from abuse, neglect and exploitation;
- B. Clarify the expectation of conduct for employees hired under the Self-Administered Services method who interact in any way with NCW participants, NCW staff and the public; and
- C. Promote conduct that reflects respect for participants and others

The employee shall read this Code of Conduct and sign the attached "Certificate of Understanding" before providing any service for NCW participants. A copy of the signed "Certificate of Understanding and Compliance" shall be filed with the Case Management Agency (CMA). This Code of Conduct prohibits abuse, neglect or exploitation of participants and requires employees to interact with NCW staff, the CMA and the public with courtesy and professionalism.

This Code of Conduct governs the delivery of services to participants of Self-Administered Services under the New Choices Waiver. Employees may not adopt or enforce individual policies that are less stringent than this Code of Conduct.

## II. DEFINITIONS

### A. General Definitions:

1. "**Participant**" means anyone who receives services under the NCW.
2. "**NCW**" means the New Choices Waiver.
3. "**Employer**" means the participant who is self-administering some or all of the NCW services.
4. "**Employee**" means any individual hired by a NCW participant (employer) to provide self-administered services, as documented in the participant's approved care plan.

### B. Definitions of Prohibited Abuse, Neglect, and Exploitation:

1. "**Abuse**" includes but is not limited to:

- Harm or threatened harm to the physical or emotional health and welfare of a participant.
- Unlawful confinement, seclusion, chemical restraint or physical restraint.
- Deprivation of life sustaining treatment except in accordance with a valid advance directive or other legally sufficient written directive from a competent participant or the participant's legal representative (e.g., a legal guardian).
- Physical injury, such as a contusion of the skin, laceration, malnutrition, burn, fracture of any bone, subdural hematoma, injury to any internal organ, any injury causing bleeding, or any physical condition which imperils a participant's health or welfare.
- Any type of hitting or corporal punishment.
- Deprivation of life sustaining treatment.
- Threatening, yelling, swearing, ridiculing, isolating or other forms of intimidating behavior.
- Any sexual abuse or sexual exploitation, including but not limited to:
  - Engaging in sexual intercourse with any participant.
  - Touching the anus or any part of the genitals or otherwise taking indecent liberties with a participant, with the intent to arouse or gratify the sexual desire of any person.
  - Employing, using, persuading, inducing, enticing, or coercing a participant to pose in the nude.
  - Engaging a participant as an observer or participant in sexual acts.
  - Employing, using, persuading, inducing, enticing or coercing a participant to engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or possessing for the purpose of distribution, or selling material depicting nudity, or engaging in sexual or simulated sexual conduct with a participant.
  - Committing or attempting to commit acts of sodomy or molestation with a participant.

2. **"Neglect"** includes but is not limited to:

- Denial of sufficient nutrition, clothing, shelter, personal care, or other health care.

- Failure to provide protection from health and safety hazards.
  - Failure to provide care in a timely manner.
  - Failure to provide adequate participant supervision, including situations where an employee is asleep or ill on the job or is impaired due to the use of alcohol or drugs.
  - Failure to provide care and treatment as prescribed by the Care Plan for the Participant.
3. "**Exploitation**" includes but is not limited to:
- Using a participant's funds, credit, assets or property without the participant's consent or using a participant's property in a way that is contrary to the participant's best interests, such as expending a participant's funds for the benefit of another.
  - Making unjust or improper use of a participant's resources.
  - Accepting a gift in exchange for preferential treatment of a participant or in exchange for services that the individual employee is already obliged to provide to the participant.
  - Using the labor of a participant for personal gain.

### III. ABUSE, NEGLIGENCE, AND EXPLOITATION ARE PROHIBITED

Employees shall not abuse, neglect, or exploit participants in any way, whether through acts or omissions or by encouraging others to act or by failing to deter others from acting.

### IV. EMPLOYEE'S COMPLIANCE WITH CONDUCT REQUIREMENTS IMPOSED BY LAW, CONTRACT OR OTHER POLICIES

In addition to complying with this Code of Conduct, the employee shall comply with all applicable laws (such as statutes, rules and court decisions) and all policies adopted by the NCW program whose participants the employee serves. If a statute, rule or policy defines abuse, neglect, or exploitation as including conduct that is not expressly included in this Code of Conduct, such conduct shall also constitute a violation of this Code of Conduct. *See e.g.,* Title 62A, Chapter 3 of the Utah Code (definition of adult abuse)

### V. THE EMPLOYEE'S INTERACTIONS WITH NCW PERSONNEL, CASE MANAGEMENT STAFF AND THE PUBLIC

In carrying out all duties of employment for a NCW participant, the employee shall conduct him or herself with professionalism and shall treat the employer, case management staff and members of the public courteously and fairly. The employee shall not engage in criminal conduct or in any fraud or other financial misconduct. The employee shall fully disclose any conviction from a criminal offense other than a traffic violation. The employee further agrees to inform the case management agency case manager and the participant of any conviction for a criminal offense that occurs after the date of hire.

## VI. SANCTIONS FOR NON-COMPLIANCE

If an employee fails to comply with this Code of Conduct, the State Medicaid Agency may impose appropriate sanctions (such as suspension or disbarment from further authorization to be hired as an employee) and may avail itself of all legal and equitable remedies (such as money damages). In imposing such sanctions and remedies, The State Medicaid Agency shall comply with the Utah Administrative Procedures Act and applicable Medicaid rules. In appropriate circumstances, the State Medicaid Agency or designee shall also report the employee's misconduct to law enforcement, Adult Protective Services and to the employee's participants and their families or representatives. In all cases, the State Medicaid Agency or designee shall also report the employee's misconduct to licensing authorities, if applicable.

## VII. EMPLOYEE'S DUTY TO HELP NCW PROTECT CLIENTS

**Duty to Protect Participant's Health and Safety.** If the employee becomes aware that a participant has been subjected to any abuse, neglect or exploitation, the employee's first duty is to protect the participant's health and safety. **Incident reporting will be per NCW Protocol.**

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*(To be signed by all employees hired under the Self-Administered Services method.)*

I have read and been provided with a personal copy of the Employee Code of Conduct.

I understand this Employee Code of Conduct and I will comply with it. I have had an opportunity to ask questions and seek clarification about the Employee Code of Conduct, and my questions have been answered to my satisfaction and understanding.

Print Employee's Name

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Employee's Signature

Date

Print Case Manager's Name

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Case Manager's Signature

Date

The Case Manager shall place a copy of this signed "Certificate of Understanding and Compliance" in the case management file.