



## New Choices Waiver Attachment B – Special Provisions Habilitation

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### INTRODUCTION

The Home and Community-Based Services (HCBS) New Choices Waiver Program (NCW) is a Medicaid sponsored program administered through the Utah Department of Health, Division of Medicaid and Health Financing, Bureau of Authorization and Community-Based Services. The Waiver Program is designed to offer the option to receive supportive services in a home and community-based setting for qualifying people wishing to move out of nursing facilities, hospitals, and other Utah licensed medical institutions that are not institutions for mental disease. NCW also offers a limited entry pathway for qualifying people who have been residing in licensed assisted living facilities or licensed small health care (Type N) facilities who wish to remain in that setting and enroll in the NCW program. (Special application and selection of entrants processes apply to ALF and Type N residents.)

The NCW program offers an array of supportive services that are intended to be utilized in conjunction with other paid and unpaid support systems and contributes to the health, safety and welfare of the targeted population. Home and community-based services are an element of the Medicaid State Plan and must operate in accordance with all established federal and state requirements for both HCBS waivers and the overall Medicaid program.

New Choices Waiver services are one component of the complete Medicaid long term care service delivery system. The roles of providers of HCBS waiver services must be clearly defined in order to ensure waiver clients' needs are identified and services are provided to support successful, integrated community living.

### SERVICE SPECIFICATIONS

NCW Service Name:      Habilitation Services

HCPCS Billing Code:    T2017

Billing Modifier:        U8

Provider qualifications:

- Must be a Medicaid provider enrolled to provide NCW Habilitation Services;
- Must have a demonstrated ability to perform the tasks ordered on behalf of the waiver client;
- Must have a current business license; and
- For home health agencies, must be a licensed in accordance with R432-700.

Service Description:

(This service description is subject to change. Refer to the New Choices Waiver Provider Manual for updates. If this agreement is ever found to be in conflict with the New Choices Waiver Provider Manual, the definition in the Provider Manual takes precedence.)

Habilitation Services are active teaching/training therapeutic activities to supply a person with the means to develop or maintain maximum independence in activities of daily living and instrumental



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activities of daily living, socialization and adaptive skills necessary to reside successfully in home and community-based settings.

Specific services include teaching/retraining the following skills:

- a) Daily living skills (grooming, personal hygiene, cooking, nutrition, health and mental health education, money management and maintenance of their living environment);
- b) Social skills (including appropriate use of community services); and
- c) Development of appropriate personal support networks and therapeutic recreational services which are focused on therapeutic intervention rather than diversion.

While it is recognized that observation of skills learned is a critical component of habilitation services, the expectation is that active teaching/training/therapeutic intervention will comprise the majority of each unit of service. This service is not intended to be vocational rehabilitation services, pre-vocational services, supported employment services, companion services or attendant care services and should not be used for any of these purposes.

### General Requirements:

By signing this attachment, provider agrees to additional terms and conditions as outlined below:

- A. Provider will report any negative or critical incident or incidents likely to receive media or legislative scrutiny involving a NCW client to the client's case management agency or to the New Choices Waiver program office immediately. This includes but is not limited to medication errors, falls, injuries, missing persons, abuse, neglect, exploitation, unexpected hospitalizations, unexpected deaths, Adult Protective Services (APS) or law enforcement involvement, and other similar incidents that raise concern for client safety. As required by law, provider will also report any suspected or actual incidences of abuse, neglect or exploitation to APS or to local law enforcement.
- B. Provider will accept the NCW Medicaid rate as payment in full, and the provider shall not bill the client nor their families an additional fee for services rendered.
- C. Provider will interact with each NCW client's designated case management agency and participate in the person-centered care planning process when requested by the client or their representative.
- D. Provider will review Service Authorization Forms received from waiver case management agencies and will return a signed copy to the case management agency. Service authorizations indicate the amount, duration and frequency of services that are authorized based on the assessment of each client's needs and are subject to approval by the State Medicaid Agency. The authorized HCPCS, number of units, frequency and duration will appear in the service authorization and providers shall not render services to waiver clients until a service authorization has been received and properly executed by both the designated waiver case



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management agency representative and the provider. Service authorizations are valid for a maximum of one year even if the “end date” on the form is left blank. Claims paid for waiver services for dates of service outside of the date span listed in the service authorization will be recovered. Claims paid for waiver services that exceed the number of units or frequency than was authorized in the service authorization will be recovered. Claims paid for HCPCS codes that were not authorized in the service authorization will be recovered.

- E. Service authorizations are not a guarantee of payment.
- F. Service authorizations are automatically nullified immediately upon any of the following events taking place:
- The NCW client elects to change to a different NCW provider
  - The NCW client elects to altogether discontinue receiving the services that the provider offers
  - The NCW client loses Medicaid eligibility
  - The NCW client is disenrolled from the NCW program for any other reason
  - The provider’s Medicaid and/or NCW contract is terminated or suspended
- G. Provider will not provide services to waiver clients when they are receiving inpatient treatment. Service authorizations are *suspended* during times when a New Choices Waiver client is admitted to an inpatient setting such as a hospital or nursing facility. Upon the client’s discharge from the inpatient setting, provider will communicate with the waiver case management agency to receive verbal approval to reinstate services if any unused units are remaining in the service authorization or to request a new authorization if the existing authorization has expired.
- H. Units of service that have been authorized for one NCW client can only be provided to that NCW client. Provider will not transfer unused units that have been authorized for one NCW client to another NCW client.
- I. Provider will contact a client’s designated waiver case management agency if the provider observes that actual service utilization trends appear to exceed the number of units authorized.
- J. Provider will verify client Medicaid eligibility each month in order to avoid providing services that are not reimbursable due to a client’s loss of Medicaid benefits. Utah Medicaid offers two methods that providers may use to verify client eligibility:
- Medicaid Eligibility Lookup Tool (<https://medicaid.utah.gov>)
  - Access Now (1-800-662-9651 option 1, option 1)



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- K. Provider shall not bill Medicaid for services that were not actually provided or for services that the provider anticipates providing to a client in the near or distant future.
- L. Provider shall not bill a client for a missed or canceled appointment unless the client or the client's legal representative has signed a written cancellation policy which expressly allows the provider to charge the client for missed or canceled appointments.
- M. Provider will not engage in unsolicited direct marketing activities to prospective NCW clients. Marketing strategies shall be limited to mass outreach and advertisements. Provider will not approach prospective NCW clients or their representatives unless the client or representative explicitly requests information from the provider. Provider shall refrain from offering incentives or other enticements to persuade a prospective NCW client to choose the provider for waiver services. Provider shall not enter into incentive or kick-back agreements with waiver case management agencies or otherwise entice the case management agency to influence or limit a NCW client's freedom to choose their own service providers. Provider may not require NCW clients to select a certain waiver or non-waiver provider for other services listed on the person-centered care plan.
- N. Provider will document each service encounter. At a minimum each service encounter record should include:
- The client's first and last name
  - The date of service for each service encounter
  - The start and end times for each service provided
  - The services provided by service title
  - Notes describing the service encounter
  - The name of the individual who performed the service
  - The signature of the individual(s) who performed the service(s) or who can attest to the completion of the service(s).
- O. Provider will abide by the policies and procedures outlined in the NCW Provider Manual and to stay apprised of policy updates and changes regarding Medicaid and the NCW program. If this agreement is ever found to be in conflict with the NCW Provider Manual, the NCW Provider Manual will take precedence over this agreement. The NCW Provider Manual is posted on the Utah Medicaid website: <https://medicaid.utah.gov>
- P. Provider will review the Medicaid Information Bulletins (MIBs) and stay apprised of policy updates and changes regarding Medicaid and the NCW program. The MIB is the tool that the Utah Department of Health, Division of Medicaid and Health Financing uses to disseminate such information to providers and stakeholders. The MIB is published quarterly or more frequently as needed. To subscribe to the Newsletter or to view the MIB releases, visit the Medicaid website: <https://medicaid.utah.gov>
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- Q. If the provider has Medicare and/or Medicaid certification and loses Medicare and/or Medicaid certification, the provider's New Choices Waiver contract shall also be terminated effective the same day as the termination of the Medicare and/or Medicaid certification. The provider will notify the New Choices Waiver Program Office within 3 business days of receiving the notification letter from Medicare and/or Medicaid. The provider will make every effort to ensure a safe and orderly transition of all NCW clients to other service providers prior to final termination of their NCW contract.
- R. If the provider is aware that it is about to undergo a change of ownership or otherwise elects to voluntarily terminate their New Choices Waiver contract, the provider shall give at least 30 days advance written notice of the change of ownership or voluntary termination to the New Choices Waiver Program Office. Providers shall assist in ensuring a safe and orderly transition of waiver clients to another service provider prior to termination.
- S. Providers cannot be listed on a person-centered care plan for a NCW client if any of the paid employees of that provider are related to one or both of the assigned NCW case managers by blood or by marriage. If the State Medicaid Agency finds that a conflict of interest is occurring between the provider agency and the case management agency, the provider or the case management agency may be prevented from providing services to that particular client. Exceptions will only be made in remote geographical areas of the state where there are no other willing, qualified providers available to offer the service(s). Only the State Medicaid Agency has authority to approve exceptions to conflict of interest rules.
- T. The State Medicaid Agency may terminate the provider's New Choices Waiver contract after giving the provider 30 days advance written notice for either of the following reasons:
1. The State Medicaid Agency detects a pattern of non-compliance with general Utah Medicaid provider standards,
  2. The State Medicaid Agency detects a pattern of non-compliance with NCW policies, procedures and/or provisions listed in this contract.

Examples of conduct that constitutes patterns of non-compliance include but are not limited to:

- Abuse, neglect or exploitation of waiver clients;
- Billing Medicaid in excess of the amount, duration and frequency of services that have been authorized;
- Billing Medicaid for services not provided;
- Inadequate or non-existent record keeping;
- Hiring individual service employees that do not meet the minimum waiver provider qualifications;
- Not maintaining minimum provider qualifications such as required license(s);



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- Acts of direct marketing to prospective or currently enrolled clients or their representatives;
- Acts of coercion or manipulation of client freedom of choice rights;
- Acts of offering or receiving incentives or kick-backs to or from other providers or entities in an effort to manipulate client freedom of choice rights; and/or
- Billing NCW clients or their representatives for services covered by Medicaid.

If the State Medicaid Agency discovers conduct that constitutes a pattern of non-compliance but elects not to terminate the provider's New Choices Waiver contract, the State Medicaid Agency may instead suspend making new referrals to the provider, require the provider to repay any overpayments, complete additional training and/or to submit to additional monitoring activities in order to avoid contract termination. The provider will be given hearing rights for any adverse actions taken by the State Medicaid Agency.

- U. All new NCW providers must complete the NCW New Provider Training before the New Choices Waiver Program Office will forward the provider's enrollment application to the next step in the enrollment process. This includes existing providers who experience changes in ownership. NCW New Provider Training is offered one time each month and is located at the Utah Department of Health, 288 N. 1460 W., Salt Lake City, Utah 84114. To register for the next training please call the NCW Program Office and ask to speak with the NCW Provider Specialist. (800)662-9651, option 6.

After the provider is enrolled, additional training is available if the provider requests it by contacting the NCW program office at the same number listed above.

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### **Signatures and Attestation:**

I am the owner, the executive director or another duly authorized representative of this provider entity. I have been empowered to review and sign this contract on behalf of the provider entity. I have read all of the requirements contained within the pages of this Attachment B – Special Provisions contract and I hereby agree that this provider entity will abide by all of the requirements.

I understand that in order to become fully enrolled as a New Choices Waiver provider this application must be approved by the New Choices Waiver Program Office within the Division of Medicaid and Health Financing, Bureau of Authorization and Community-Based Services and by the Bureau of Medicaid Operations.

Type or Print PROVIDER AGENCY Name: \_\_\_\_\_

\_\_\_\_\_  
Type or Print Name of Corporation, DBA or Other Affiliation

\_\_\_\_\_  
PROVIDER Mailing Address

\_\_\_\_\_  
PROVIDER Primary Telephone Number

\_\_\_\_\_  
PROVIDER Secondary Telephone Number

\_\_\_\_\_  
PROVIDER Email Address

\_\_\_\_\_  
Authorized Representative's Name

\_\_\_\_\_  
Authorized Representative's Signature

\_\_\_\_\_  
Signature Date

When this contract has been reviewed and signed with a "wet signature," THIS PAGE ONLY must be scanned and uploaded to your New Choices Waiver provider enrollment file within PRISM. If you have any questions, please call (800)662-9651, option 6, and ask to speak with the NCW Provider Specialist.