DRAFT Certification Standards for Conflict-Free Case Management (CFCM)

Medicaid Home and Community-Based Services

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I. INTRODUCTION

The purpose of this document is to establish the Medicaid certification standards for conflict-free case management (CFCM). These CFCM certification standards apply to case management services provided to Medicaid home and community-based services (HCBS) participants, including programs serving participants with intellectual and developmental disabilities (I/DD) and Elders and Adults with Disabilities (EAD). The Rhode Island Executive Office of Health and Human Services (RI EOHHS) shall maintain separate policy and procedure manual(s) describing how the CFCM standards outlined herein shall be observed.

CFCM ensures that clinical or non-financial eligibility determination is separated from direct service provision. The CMS rule at 42 CFR § 441.301(c)(1) requires that HCBS programs use a person-centered planning process which includes ways to solve conflict or disagreement and that the guidelines around conflict of interest are clear to everyone involved in the planning process (Rule). The Rule also requires that providers of HCBS, or those who have an interest in or are employed by a provider of HCBS, shall not provide case management to or develop the person-centered service plan for people receiving services.

The practice of case management is a professional and collaborative process that assesses, plans, implements, coordinates, monitors, and evaluates the options and services required to meet a participant's health needs.

Under federal regulations, CFCM is mandatory for all Medicaid HCBS participants who receive Medicaid long-term services and supports (LTSS) at home or in a community setting. Case management entities may choose to support two (2) populations (participants with I/DD and EAD) or choose to serve one (1) population only.

These standards DO NOT apply to:

1. PACE participants.
2. Katie Beckett eligible children.
3. Other Medicaid-eligible children who receive Medicaid services at home or in the community.
4. Nursing Home Transition Program (NHTP) including Money Follows the Person (MFP).
5. Integrated Health Home.
6. The Office of Healthy Aging's At Home Cost Share program.

RI EOHHS has the authority to establish standards for providers of case management services as the designated single state Medicaid authority and such services are described under the Center for Medicare and Medicaid Services (CMS) approved Section 1115 Demonstration Waiver.

A certificate issued by EOHHS or its duly authorized state agency designee is required for a Medicaid provider to receive reimbursement for providing case management services to Medicaid HCBS participants, and the issuance of such a certificate requires full compliance with these CFCM certification standards. The issuance of such a certification certificate does not commit or bind RI EOHHS or the State of Rhode Island to the funding of any program or entity.

II. AGENCY CASE MANAGEMENT STANDARDS

Case management agencies ("Agency" or "Agencies") shall meet all applicable State and federal requirements. The Agency shall have a physical location in Rhode Island or a border community as outlined in 210-RICR-20-00-3 that is welcoming, safe, publicly accessible and complies with all Americans with Disabilities Act (ADA) guidelines.

Case management Agencies shall be knowledgeable of and in compliance with all relevant State and federal laws and requirements. Case management Agencies shall also ensure the requisite policies are in place as described herein. The case management Agency is responsible to ensure that all case managers providing services on behalf of the CFCM Agency comply with these certification standards and related CFCM Agency policies.

Case management Agencies shall have a sound organizational approach to ensure the provision of effective, timely, and high quality CFCM services. An organizational chart that includes the names and titles of those in leadership roles shall be made available to EOHHS. This organizational chart shall be updated on a yearly basis and be maintained as Agency personnel changes.

Case management Agencies shall have the following written policies and protocols:

Conflict of Interest Policy:

At a minimum, the policy shall:

1. Define conflict of interest;
2. Describe that the case manager developing the person-centered plan shall not be any of the following:
    a. Related by blood or marriage to the participant or to the paid caregivers of the participant;
    b. Financially responsible for the participant;
    c. Empowered to make financial or health-related decision on behalf of the participant;
    d. Hold financial interest in an entity that is paid to provide care for the participant;
3. Describe the Agency's process for preventing conflicts of interest;
4. Describe how and when case managers shall report potential conflicts of interest with their supervisor;
5. Describe the Agency's process for identifying and correcting conflicts of interest when they occur; and
6. Describe other limitations as required by CMS and in alignment with federal rules.

Information and Referral Policy:

The policy shall state that the case management Agency shall accept and respond to requests for information and/or assistance from individuals, caregivers, and other third parties.

After Hour Coverage Policy:

The protocol shall at a minimum ensure that participants can leave a message with the Agency after close of business.

Smoking Policy:

The Agency shall have a smoking policy that at a minimum prevents staff from smoking in the presence of participants.

Limited English Proficiency Policy:

The Agency shall have a policy that describes how individuals with limited English proficiency shall be assured meaningful access to services provided by the Agency. The policy shall comply with all State and federal laws and regulations.

Personnel Policy:

The Agency shall have policies that address how the Agency selects, screens, hires, and trains personnel. This policy shall at minimum provide for and describe a:

1. Governance structure;
2. Criteria and procedures for employee performance reviews;
3. Orientation procedure for new case management staff;
4. Process for initial and ongoing case management training designed to ensure that case managers shall have the necessary range of knowledge, skills, and abilities to provide high quality case management services;
5. Method for conducting employee screening and background checks as mandated by State and federal law;
6. Method for verifying staff qualifications;
7. How supervision is provided including accessibility of supervisors, review of client records, ongoing feedback between the supervisor and case manager, and frequency of performance evaluations of case managers; and

Background Check Policy:

The policy shall outline the background checks required for a person to be employed as a case manager. The policy must be consistent with the EOHHS Background Check Policy.

Assignment Policy:

The Agency shall have a policy regarding the case management Agency's process for assigning participants to case managers. This policy shall describe:

1. How a case manager will be assigned to the participant, including but not limited to procedures for participant choice of case manager.
2. The process for how participants can change case managers. The case management entity is required to make reasonable efforts to accommodate the request and assign a new case manager to the participant.
3. Methods utilized to ensure adequate program staffing during periods of staff unavailability, such as vacation, holidays, or sick leave.

Caseload Policy:

The policy shall state how the Agency ensures that case managers have a reasonable caseload that allows adequate time to meet the needs of their assigned participants and comply with all federal and

State rules, regulations, and standards. This shall include a maximum caseload size per case manager. The policy shall also address the prioritization process for people accessing case management services.

Case Management Supervision Policy:

The policy shall address how supervision is provided to case managers, including accessibility of supervisors, review of client records, ongoing feedback between the supervisor and case manager, and timely performance evaluations of case managers.

Grievance Policy:

This policy shall outline how the case management Agency will respond to participant grievances that involve the case management Agency and/or case manager and communicate information about participant grievances to EOHHS. This policy shall discuss at a minimum:

1. Methods for ensuring participants are informed of their right to report a grievance.
2. Process to review, report, investigate, and respond to grievances, and associated timelines.
3. Approach to trend analyses and addressing issues identified.

In addition, this policy shall outline how the case management Agency will respond to participant grievances that involve direct service providers and communicate information about participant grievances to EOHHS.

In addition, the Agency shall have a policy which outlines the Agency's response to employee grievances. This policy shall discuss at a minimum the acceptance and resolution of grievances brought by employees as a result of case management Agency management practices.

Mandated Reporting of Abuse, Neglect, and Exploitation Policy:

The policy shall address how the case management agency will respond in cases of suspected abuse, neglect, and/or exploitation ("critical incidents") of vulnerable adults in compliance with State and federal requirements. This policy shall further address how case managers identify, respond to, and report critical incidents in accordance with RI EOHHS standards.

Behavioral Support Plan Policy:

The Agency shall have a policy that establishes procedures, consistent with State and federal law and regulations, that guide the case manager when a participant has a behavioral support plan. This policy shall provide for the process by which staff can identify and report. This policy shall identify the misapplication of a behavioral support plan and mechanisms for identifying and reporting such suspected misuse or misapplication as a critical incident.

Participant Record Policy:

The policy shall include:

1. The procedure governing the use, storage, and removal of participant records;
2. The conditions for release of information contained in the participant record;
3. The requirements of authorization in writing by the Participant or legal representative for release of information;

4. The maintenance of all records relating to the delivery and documentation of case management services for a minimum of seven (7) years and the maintenance of all financial records for a period of seven (7) years; and
5. Compliance with the Health Insurance Portability and Accountability Act (HIPAA).

Continuous Quality Improvement Plan:

The policy shall outline the case management agency's ongoing quality improvement plan regarding case management services. This plan shall include:

1. How the case management agency oversees the work performed by case managers to ensure all tasks are performed according to the State's requirements;
2. How the case management agency reviews work to determine whether the work is being completed in a correct and high-quality manner;
3. How the case management agency identifies and addresses case manager performance issues; and
4. Description of the case management Agency's participation in the RI EOHHS hosted Quality Community of Practice.

Financial Management and Billing Policy:

The Agency shall have policies that outline the operational steps for conducting Internal Controls for claim submission, billing process, oversight of recordkeeping, monitoring expenditure controls, and clearly define staff roles and responsibilities.

Emergency Management Plan:

The Agency shall have a plan describing how it will identify the critical functions and services it performs that shall continue in the event of an emergency and include a plan as to how those functions and services will be provided during that time. The plan shall describe how the Agency shall collaborate and cooperate with local emergency planners and other local providers. The plan shall also describe how the agency will:

1. Identify participants who require specific assistance during an emergency;
2. Provide information and encourage individuals to develop a personal emergency preparedness plan;
3. Provide assistance in developing the plan as necessary for needed assistance and support in the event of a natural or other emergency which may result in disruption of service and/or personal harm; and
4. Involve and consider family caregivers and other natural supports as part of the process.

Case management agencies shall at a minimum demonstrate the following:

Core Components:

The Agency shall demonstrate its capacity to implement the four (4) core components of CFCM using the standardized automated forms and processes.

1. **Information gathering**: A comprehensive review of a Medicaid HCBS participant's goals, needs, and preferences.

2. **Person-centered plan development**: A written person-centered plan that articulates a Medicaid HCBS participant's care needs, wants, and supports (paid supports and natural unpaid supports) that will assist the participant in achieving their goals.
3. **Connecting to services and supports**: Connect the Medicaid HCBS participant to paid and unpaid natural supports.
4. **Plan monitoring and follow-up**: Regular contact to review goal progress and quality and effectiveness of services.

Cultural Competency:

The Agency shall demonstrate its ability to work effectively in multiple community and cultural settings with people of different racial, ethnic, class, language, and religious backgrounds, as well as gender expressions and sexual orientations.

Connections with Community-Based Resources:

The Agency shall demonstrate its ability to establish and maintain working relationships with community-based resources, supports, organizations, hospitals, HCBS direct service providers, and other organizations that assist in meeting the HCBS participant's needs.

Supervision of Case Management Staff:

The Agency shall demonstrate that the individual(s) responsible for the supervision of case management staff do the following:

1. Review case records and ensure that documentation is adequate and up-to-date and that participant records and reports meet RI EOHHS guidelines;
2. Meet at least twice a month with each case manager to assist them with person-centered plan implementation and problem solving;
3. Conduct visits with each case manager to the participant's home every six (6) months to observe and evaluate the skill level of the case manager;
4. Observe and document each case manager's interpersonal skills, person-centered plan review, knowledge of services provided, and active listening skills; and
5. Hold monthly team meetings with their case managers to review any changes in practice standards, discuss quality assurance initiatives or activities, etc.

Reporting:

The Agency shall demonstrate their ability to submit the following required reports:

1. **Monthly Performance Report**: The case management entity is required to track and report performance standards in accordance with procedures established by the State. The format of this report and due date shall be defined by the State in its CFCM policies and procedures manual.
2. **Annual Independently Audited Financial Statement**: Annual report of the case management Agency's financial status and solvency.
3. **Annual Cost Report**: Upon request, CFCM Agencies are required to complete a RI EOHHS cost reporting template.
4. **Critical Incident Report**: Report all observed or suspected critical incidents. Case managers are mandatory reporters of abuse, neglect, mistreatment, and exploitation ("Critical Incidents")

under State law. Critical Incidents must be reported as soon as possible to law enforcement and/or the appropriate State agency.

5. **Grievances**: Provide EOHHS with reports detailing all grievances received from and made by participants and family members with resolutions and timelines. This report shall be submitted quarterly to RI EOHHS by the 10th of the following month of the reporting period. The format of this report shall be defined by the State in its policies and procedures.
6. **Fraud, Waste, and Abuse**: Report any misuse of Medicaid funds and/or system abuse to the RI EOHHS' Program Integrity Unit at (401) 462-6503 and the Office of the Attorney General's Medicaid Fraud Control Unit.

RI EOHHS reserves the right to ask for further information as deemed necessary to monitor the performance of Agencies providing conflict free case management services.

III. INDIVIDUAL CASE MANAGER STANDARDS

The Agency shall demonstrate the following standards for individual case managers:

A. The case manager shall be knowledgeable of and comply with all agency policies and standards.
B. A case manager shall be knowledgeable about the full range of services available to individuals in their region and shall ensure that individuals are informed of available resources and services. The case manager shall make any needed referrals.
    1. A case manager shall ensure that a participant has the right to receive services under conditions of acceptable risk. "Acceptable risk" is defined as the level of risk an individual and/or their guardian is willing to accept after the informed consent process. When necessary, a case manager shall work with the individual and the service provider to develop a Negotiated Risk Agreement.
C. A case manager shall assist HCBS participants in completing any forms for the annual Medicaid renewal necessary to ensure that there are no service disruptions.
D. A case manager shall provide service in an efficient, effective, and collaborative manner to avoid duplication of services, unnecessary costs, and administrative tasks.
E. A case manager shall respond to requests for information and/or assistance from individuals in a timely manner.
F. A case manager shall inform all individuals of the agency's grievance procedures.
G. A case manager shall inform all individuals regarding the right to be free from abuse, neglect, and exploitation, and how to identify and report critical incidents.
H. A case manager shall ensure that the participant receives person-centered services in the least restrictive and most appropriate setting in accordance with their needs and preferences, as required State and federal law and the U.S. Supreme Court *Olmstead* decision.
I. A case manager shall respect the participant's rights, strengths, values, and preferences, encouraging the participant to create, direct, and fully participate in their individualized written person-centered plan possible.
    1. The participant may involve a caregiver or a legal representative in decision making. A legal representative may be a legal guardian appointed by a Rhode Island probate or family court with specific duties outlined in the court order, an attorney, or power of attorney.

2. Participants have the right of self-determination and shall be encouraged and supported to make their own decisions and decide with whom they wish to associate and who they want to be involved in decision making. If a participant has a guardian or agent, the case manager shall involve them in accordance with that individual's legal powers, duties and responsibilities.

J. The case manager will facilitate a participant's person-centered planning process that is timely and occurs at times and locations of convenience to the individual.

K. Person-centered planning shall reflect a process to ensure that the setting in which the individual resides is chosen by the individual.

L. **Assessment**: A case manager serving Elders, and Adults with Disabilities (EAD), with input and participation by the participant and their support network, shall assess the individual's strengths and needs using the assessment tool(s) approved by EOHHS.
    1. A case manager shall update the assessment at least annually, or at any time there is a significant change in the participant's life that would alter the amount and type of formal and informal services and supports needed.
    1. A case manager shall make every effort to assure the completeness and accuracy of the assessments.
    2. Assessments need to be completed in compliance with Choices for Care and other program protocol.

M. When a participant requires case management assistance for complex issues, the case manager, along with the participant and their support network, shall identify person-centered goals.

N. Using the information from assessments and in consideration of the participant's person-centered goals, the case manager shall discuss all available options with the individual and their support network and agree upon strategies built upon the strengths of the individual to achieve these goals. Strategies shall describe the specific services or supports to be provided, the person responsible for carrying out the strategies and the target date as agreed upon by the participant.

O. A case manager shall monitor the delivery of formal and informal services and supports to ensure that services are being provided as planned, to ensure that the participant's identified needs are being met, and goals are being pursued. Monitoring shall include regular contact with the participant, caregivers, and service providers. The participant's goals and strategies shall be updated to reflect the annual reassessment or more frequently if there is a significant change in the participant's life that would alter the amount and type of formal and informal services and supports needed. For more specific guidelines, refer to CFCM Policy and Procedure manual.

P. A case manager shall maintain current, complete, and accurate paper or electronic files for each participant, including, but not limited to:
    1. A written release of information or documentation of why a written release of information could not be obtained.
    2. The appropriate assessment form designated by EOHHS.
    3. Person-centered plan which is driven by the participant's needs, interest, preferences and wishes, the development of which provides the participant with options, choices and opportunities. The plan shall:
        a. Reflect the services and supports that are important for the participant to meet the needs identified through an assessment of functional need, as well as what

is important to the participant with regard to preferences for the delivery of such services and supports the participant's strengths and preferences.

b. Reflect the setting in which the participant resides is chosen by the participant.
c. Reflect clinical and support needs as identified through an assessment of functional needs.
d. Reflect individually identified goals and desired outcomes.
e. Reflect the services and supports (paid and unpaid) that will assist the participant to achieve identified goals, and the providers of those services and supports, including natural supports. Natural supports are unpaid supports that develop, strengthen and maintain community integration and are provided voluntarily to the participant in lieu of paid services.
f. Reflects risk factors and measures in place to minimize them, including individualized backup plans and strategies when needed.
g. Be understandable to the participant receiving services and supports, and the participants important in supporting them. At a minimum, for the written plan to be understandable, it must be written in plain language and in a manner that is accessible to participants with disabilities and participants who are limited English proficient.
h. Identify the participant and/or entity responsible for monitoring the individualized plan.
i. Be finalized and agreed to, with the informed consent of the participant in writing, and signed by all individuals and providers responsible for its implementation.
j. Be distributed to the participant and other people involved in the plan.
k. Include those services, the purchase or control of which the participant elects to self-direct.
l. Prevent the provision of unnecessary or inappropriate services and supports.

Q. Modifications, or exceptions, to the CMS required HCBS person-centered planning process shall be documented and include the following:
    1. Identify a specific and individualized assessed need for modification;
    2. Document the positive interventions and supports used prior to any modifications to the person-centered service plan;
    3. Document less intrusive methods of meeting the need that have been tried but did not work;
    4. Include a clear description of the condition that is directly proportionate to the specific assessed need;
    5. Include a regular collection and review of data to measure the ongoing effectiveness of the modification;
    6. Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated;
    7. Include informed consent of the individual or their legal representative;
    8. Include an assurance that supports will cause no harm to the individual;
    9. Case notes that shall focus on the individual's progress and any emergent issues that need to be addressed;

10. Other correspondence received or sent which is relevant to individual;
11. Other documents required by specific programs and services, such as copies of applications, notice of decisions, etc.;
12. Guardianship/Power of Attorney and other advanced directives shall be documented in the assessment;
13. If the case manager is taking direction from a legal representative, there shall be a copy of the legal documentation maintained in the individual's case management record. (e.g. Guardianship or Power of Attorney documents); and
14. Documentation of Negotiated Risk Agreement (if applicable).

IV. PERFORMANCE STANDARDS

RI EOHHS will use the following performance standards to assess case management agency compliance.

A. The number and percentage of HCBS participants contacted within three (3) business days after the agency was notified of a new Medicaid HCBS participant.
B. The number and percentage of HCBS participants (or families/legal guardians) who received information on how to identify and report a critical incident (abuse, neglect, exploitation, and unexplained death).
C. The number and percentage of HCBS participants who were offered choice of services and providers.
D. The number and percentage of HCBS participants who had their initial person-centered planning meeting within ten (10) business days of their initial contact.
E. The number and percentage of HCBS participants who had their person-centered plan entered into the State's LTSS case management system within ten (10) business days of completing the person-centered planning meeting.
F. The number and percentage of HCBS participants that had a documented monthly contact.
G. The number and percentage of HCBS participants whose person-centered plans were updated at least annually or when there was a change in the participant's needs.
H. The number and percentage of HCBS participants reported to the State who did not receive services specified in the person-centered plan including type, scope, amount, duration and frequency.

V. CERTIFICATION PROCESS

Certification Period:

RI EOHHS certification periods include:

A. **Initial certification**: One (1) year following the initial certification date, unless sooner suspended or revoked.
B. **Recertification**: Two (2) years following the date of renewal, unless sooner suspended or revoked.

Certification Process:

A. The initial certification process applies to new case management entities who are not certified to provide CFCM. The recertification process applies to case management entities who currently maintain an active CFCM certificate.

B. Applicants shall for initial certification or recertification using the Application for Certification included in Appendix A. The Application for Certification must be submitted forty-five (45) calendar days prior to the date of renewal.
C. The State will convene a CFCM Application Review Committee to evaluate applications. A periodic review process will be established by the State, depending on the submission of applications.
D. Prior to technical review, submitted applications will be reviewed for completeness and for compliance with core expectations. Incomplete applications will be returned without further review.
E. Initial certification will be effective on the date specified by RI EOHHS once RI EOHHS determines that the case management agency to be in compliance with these certification standards and other applicable laws and regulations.

Issuance and Transfer or Assignment of Certificate:

Upon receipt of a completed application for a certificate, RI EOHHS shall issue a certificate if the case management agency meets the requirements of the standards included herein. A certificate issued hereunder shall be the property of the state and loaned to such certified agency. Each certificate shall be issued only for the premises and persons named in the application and shall not be transferable or assignable except with the written approval of RI EOHHS.

Change of Ownership, Operation, or Location:

A. When a change of ownership or operation or location of a case management agency is planned or when discontinuation of services is contemplated, RI EOHHS shall be given written notice ninety (90) calendar days in advance of any proposed changes in location, name, or ownership of the case management agency, or case management agency closure.
B. A certificate shall immediately become void and shall be returned to RI EOHHS when operation of a case management agency is discontinued or when any changes in ownership occur.
C. When there is a change in ownership or in the operation or control of the case management agency, RI EOHHS reserves the right to extend the expiration date of such certificate, allowing the case management agency to operate under the same certificate which applied to the prior certificate holder for such time as shall be required for the processing of a new application or reassignment of consumers, not to exceed six (6) weeks.

Denial, Suspension or Revocation of Certificate or Curtailment of Activities:

RI EOHHS is authorized to deny, suspend or revoke the certificate or curtail activities of any case management agency that receives State or federal funding and:

A. Has failed to comply with EOHHS rules and regulations;
B. Has failed to comply with the standards herein;
C. Has offered or provided services to participants outside of the scope of its certificate; or
D. Has jeopardized the health and safety of any participant;
E. Has been excluded from the Medicaid Program by and State or Federal agency.