

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES

# GUIDANCE DOCUMENT

“This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Nebraska Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.”

Pursuant to  
Neb. Rev. Stat. § 84-901.03

# Home and Community-Based Waiver Local Level Incident and Death Review Process

## Purpose

The Local Level Incident and Death Review Process records critical events/incidents and deaths. Reports of incidents may be received from any source, including sources other than the participant or participant representative.

Critical events/incidents are events that bring harm, or risk of harm, to participants. These include abuse, neglect, exploitation, or licensing violations. These events must be reported to appropriate authorities to conduct follow-up action. Appropriate authorities include Adult or Child Protective Services, Law Enforcement, and Regulation and Licensure (for licensed providers/facilities).

Situations of environmental events (such as fire, weather, and flooding) which cause risk to participants, as well as events causing imminent (life threatening) danger, will be tracked through this process. These situations will be reported to the Division of Developmental Disabilities (DDD), and other authorities as appropriate.

Explained and unexplained deaths are reviewed to safeguard the health and well-being of all AD and TBI Waiver participants, by identifying trends which may indicate training and education needs. Unexplained deaths are deaths where the reason or cause of the death is unclear or unknown.

Due to the Coronavirus (COVID-19) pandemic, issues related to COVID-19 are monitored through this process to ensure the health and safety of waiver participants. Tracked events related to COVID-19 are participant **hospitalization** due to COVID-19 and participant COVID-19 testing with a **positive** result. These events are reported to DDD.

## Process

### Open Waiver Cases

This process is used only for participants with an open waiver case at the time of incident or death. When an incident or death occurs before the waiver case is opened or after the case has been closed, the CONNECT Local Level Incident Form should not be completed.

### Types of Incidents

CONNECT Local Level Incident forms will be completed for all reports of incidents or deaths received by or known to local agency/office staff. Types of incidents recorded on the CONNECT Local Level Incident forms are: **abuse, neglect/unsafe environment, financial exploitation/theft, licensing violations, environmental events (such as fire, weather, and flooding), imminent (life threatening) danger, and deaths.** Multiple incident types may be recorded on the same incident form when they happened at the same time. Incidents are recorded for situations caused by the participant or others.

Due to COVID-19, CONNECT Local Level Incident forms will be completed for all reports received by or known to agency/office staff of participant hospitalization due to COVID-19 and participant COVID-19 testing with a

positive result. Multiple types of COVID-19 events may be recorded on the same incident form. Incident forms for events related to COVID-19 may contain additional incident events (such as abuse, neglect, and death) when those events are related to the occurrence of COVID-19 events.

The CONNECT Local Level Incident form has an option for identifying “other” types of incidents for situations which cause risk, but are not clearly explained by the options on the form.

## Action Taken/Reporting to Appropriate Authorities

### Incidents Known to Local Agency/Office Staff

When local agency/office staff become aware of an incident, they must take appropriate action by reporting the incident to appropriate authorities. Appropriate authorities can include Adult or Child Protective Services and Law Enforcement, as appropriate for all types of incidents. Appropriate authorities can include Regulation and Licensure for incidents involving licensed providers/facilities. Depending on the situation, it may be appropriate to contact more than one type of authority. The action taken and the date action was taken will be documented on the CONNECT Local Level Incident form.

- Guidelines for mandatory reporting for abuse, neglect, and exploitation for the adult/aged population are on the DHHS website at <http://dhhs.ne.gov/Pages/Adult-Protective-Services.aspx>.
- Guidelines for mandatory reporting for abuse, neglect, and exploitation for children is at <http://dhhs.ne.gov/Pages/Child-Abuse.aspx>

For incidents related to environmental events, imminent danger and death, refer to the document section “Types of Incidents Reported to DDD.”

### Incidents Reported to Local Agency/Office Staff via N-FOCUS Alerts

When a local agency/office staff person receives an N-FOCUS alert about an incident reported to APS or CPS by another party, local agency/office staff should direct all inquiries about the information to the appropriate person at APS or CPS to determine if the intake was accepted or not. **Local agency/office staff must never question or inform participants, participants’ family members/friends, or providers about APS or CPS intakes.**

When a local agency/office staff needs to contact APS or CPS to inquire about an incident, or an alert, in order to take appropriate action, questions they may ask include:

- Was a care provider a perpetrator? If so, should this person not have contact with the participant until the investigation is complete? (Local agency/office staff may need to tell APS or CPS the names of providers and other primary caregivers.)
- What are the safety concerns for the participant?
- Does the participant need to have their plan adjusted to address safety concerns?

Local agency/office staff should not take any action or participate in any conversation that may interfere with an open APS or CPS investigation. Local agency/office staff should consult only with APS or CPS staff about the report when performing waiver resolution activities. Local agency/office staff may provide information to the assigned APS or CPS worker as requested by the assigned APS or CPS worker as part of their investigation.

When information cannot be obtained from APS or CPS as to whether an intake was accepted, DDD staff assigned to monitor incidents may be contacted for assistance.

When local agency/office staff receive an N-FOCUS intake alert and learn APS or CPS did not accept the intake due to the intake not meeting the definition of abuse/neglect/exploitation, an incident form may not need to be completed. When this occurs, applicable information should be documented in the participant narrative section of CONNECT.

## COVID-19 Incidents Reported to Division of Developmental Disabilities

Upon learning of participant-related COVID-19 events, a local agency/office supervisor or designee must notify the DDD Quality Improvement (QI) Program Specialist by phone or email of the following situations **by the next working day**:

- Participant **hospitalization** due to COVID-19
- Participant COVID-19 testing with a **positive** result

When local agency/office staff have questions related to COVID-19 events outside the events listed, those questions should be referred to the QI Program Specialist. When the QI Program Specialist is unavailable, questions or notifications can be referred to the QI Program Coordinator.

When events related to COVID-19 are in any way related to other types of incidents (such as abuse, neglect, or exploitation), local agency/office staff should follow other sections of this document related to the type of incident, as well as notifying the QI Program Specialist about the COVID-19 event.

Local level agency/office staff will complete the CONNECT Local Level Incident form as applicable per instructions in the rest of this document. Incident forms should not be emailed to DDD via CONNECT until the participant has been determined to be free of COVID-19 (for example, hospitalization or quarantine has ended or COVID-19 tests have come back negative).

## Types of Incidents Reported to Division of Developmental Disabilities (Imminent Danger, Environmental Events, Deaths)

For incidents representing **imminent (serious or life threatening) danger** or **environmental events (such as fire or weather flooding)**, the local agency/office supervisor or designee must notify the appropriate DDD Quality Improvement (QI) Program Specialist **by the next working day**. When there is a problem contacting the QI Program Specialist, contact the QI Program Coordinator.

This notification may occur by either telephone or email. Due to the possibility of technical problems, emailing an incident form in CONNECT does *not* count as this notification.

- By the end of the following working day, the QI Program Specialist will review the incident with their supervisor and other DDD staff, to determine if appropriate action is being taken (appropriate authorities have been notified) and appropriate waiver resolution activities are occurring.
- For incidents representing **death** of a participant, the Local Agency/Service Coordinator makes a verbal or written report by telephone or email to the HCBS waiver unit Staff Assistant by the next business day. The HCBS unit Staff Assistant will email [nebraska.quality.help@libertyhealth.com](mailto:nebraska.quality.help@libertyhealth.com) to notify and give a summary of the details about the death.

## Waiver Resolution Activities

Local agency/office staff will perform waiver resolution activities in order to mitigate the incident that occurred, and ensure the health and safety of the participant. These activities will be documented on the CONNECT Local Level Incident form, along with the date of completion. Multiple activities may need to be performed, depending on the nature of the incident.

## Completion and Review of Incident Forms

### Completion and Review of Incident Forms NOT Related to Death

Local agency/office staff will complete the CONNECT Local Level Incident Form. Refer to the CONNECT manual for instruction on how to navigate and fill the form.

## Timelines for Local Agency/Office Staff for Incidents NOT Related to Death

Within 30 working days of the date the incident is reported to the local agency/office staff, the incident must be resolved (waiver resolution activities completed), unless unforeseen circumstances arise. The completed CONNECT Local Level Incident Form must be emailed to DDD (using the link in CONNECT) within 15 working days of completion of waiver resolution activities.

- When unforeseen circumstances arise, which prevent the incident resolution from occurring within 30 working days, the local agency/office will notify the DDD office with the reason for the delay.
- When the incident resolution is completed, the local agency/office will email the incident form to the DDD office (using the link in CONNECT) within 15 working days of completion of the waiver resolution activities.

## Timelines for Division of Developmental Disabilities for Incidents NOT Related to Death

Within 30 calendar days of receiving the email notification via CONNECT, DDD will review the completed CONNECT Local Level Incident form. DDD staff will complete the State Oversight Review section and finalize the CONNECT Local Level Incident form.

- When the incident was resolved within 30 working days and DDD does not require any additional information, DDD staff will finalize the CONNECT Local Level Incident form using the **'Approved and Closed'** option in the State Oversight Review section.
- In order to determine if appropriate Waiver actions have been taken, additional information may be requested. Additional actions may also be requested. Local agency/office staff have up to 15 working days to provide information requested. During this time, DDD staff will put the CONNECT Local Level Incident form in 'Local Action Pending' status in the State Oversight Review Section. Within 15 working days of receiving the information, DDD staff will complete and finalize the CONNECT Local Level Incident form using the **'Local Action Approved and Closed'** option in the State Oversight Review section.

DDD staff will inform local agency/office staff by email when the CONNECT Local Level Incident form has been approved and finalized.

## Completion and Review of Incident Forms *Related to Death*

Local agency/office staff will complete the CONNECT Local Level Incident Form. Refer to the CONNECT manual for instruction on how to navigate and fill the form.

## Timelines for Local Agency/Office Staff for Incidents *Related to Death*

After notifying HCBS Waiver unit staff assistant of the death by telephone or email, the local agency/office staff will complete the CONNECT Local Level Incident form and submit the completed CONNECT Local Level Incident Form to DDD (using the link in CONNECT). **The Service Coordinator will also fill out the Notification of Death Form within 10 working days.**

The form can be submitted by clicking the submit button at the end of the form **or** by emailing it to [Nebraska.quality.help@libertyhealth.com](mailto:Nebraska.quality.help@libertyhealth.com).

Within 10 working days of notification, the local agency/office staff will upload the following records to the participant's CONNECT Waiver Case:

### Required forms/information:

- Incident Form for Death;
- Current copy of person-centered plan;
- Aged and Disabled Medicaid Adult Assessment;
- interRAI, for children age 48 months to 17 years;

- Individual Family Service Plan (IFSP), for children age 0 to 47 months;
- The most recent physical exam or most recent medical history and current diagnoses;
- When applicable, hospice plan of care/orders, advanced directives, alternative to CPR, or DNR; and
- When applicable and available, autopsy, and medical examiner or coroner report.

**Additional information may be requested, when warranted and available:**

- Nursing and healthcare assessments for the last three months before death or transfer of care;
- Most current physician orders and medication administration records at the time of death or transfer of care, including the last three months before death;
- Lab reports and diagnostic studies for the last 12 months before death or transfer of care;
- All medical and behavioral contacts in the last six months before death or transfer of care;
- Any hospitalization/ER reports over the past 12 months (including discharge instructions and ancillary department’s evaluations) before the death or transfer of care; and
- Most recent dietary guidelines and assessments.

**Review of Death by Liberty Health Mortality Review Triage Team**

Liberty Health Mortality Review Triage Team (MRTT) reviews each death notification and will screen each death and determine if an expedited review is needed. Expedited reviews include, but are not limited to, deaths involving or related to possible trauma, suicide, homicide, significant repeat trauma requiring ER/hospitalization, choking, sudden death, sepsis, or pneumonia. Liberty’s Mortality Review Assistant begins collecting documents within CONNECT, based on MRTT recommendations. When documents are needed that cannot be found in CONNECT, Liberty’s Mortality Review Assistant will look in N-FOCUS/CONNECT to determine the participant’s Service Coordinator and contact them for the documents. For expedited reviews, Liberty’s Mortality Review Assistant will reach out to the Service Coordinator through an email, using only the CONNECT ID number for identification, and request documents be uploaded into CONNECT within three business days. When the review is not expedited, a list of needed documents will be sent to the SC in a secure email within 10 business days.

Within 20 calendar days of the initial request, the Service Coordinator is required to submit all requested documents, or a response explaining why certain documents cannot be sent. Once Liberty has completed the death review process, or the file has gone through Mortality Review committee, the DDD Quality Improvement (QI) Program Specialist will finalize the CONNECT Local Level Incident form using the ‘**Approved and Closed**’ option in the State Oversight Review section. DDD staff will inform local agency/office staff by email when the CONNECT Local Level Incident form, along with the death review, have been completed, approved, and finalized.

**Additional Information for All Incident Forms**

DDD staff will analyze the statewide results for all incident forms and present findings to the HCBS Waivers Quality Council and the HCBS QI Subcommittee.

Referrals to the appropriate authorities do not replace the need for a Service Coordination assessment of participant needs or revision of the person-centered plan, when necessary.