2019 Medicaid HCBS Developmental Disabilities Waiver Amendments
Governor Pete Ricketts

Vision:
Grow Nebraska

Mission:
Create opportunity through more effective, more efficient, and customer focused state government

Priorities:
• Efficiency and Effectiveness
• Customer Service
• Growth
• Public Safety
• Reduced Regulatory Burden

We Value:
• The Taxpayer
• Our Team
• Simplicity
• Transparency
• Accountability
• Integrity
• Respect
What’s New?

- In 2017, both the Comprehensive Developmental Disabilities (CDD) and Developmental Disabilities Adult Day (DDAD) Waivers were approved, with a Corrective Action Plan from the Centers for Medicare and Medicaid Services (CMS). The waiver amendments were developed in response to the Corrective Action Plan.

  - The Corrective Action Plan outlined that the state needed to conduct a rate rebase, and change the manner in which host home (Extended Family Home) services are provided.
  - This presentation will go through the changes in each section/appendix of the waivers being proposed in the amendments, in response to the Corrective Action Plan.

- The Division of Developmental Disabilities engaged with providers and stakeholders throughout the process of drafting the amendments, to ensure that feedback important to all stakeholders is incorporated into the amendments. The approved amendments will reflect changes from the drafts presented for public comment, which were made based on feedback from stakeholders and CMS.
Next Steps for Implementation

The amendments have been approved by CMS to be effective October 1, 2019.

From the effective date, there will be a 90 day transition period, in which participants must crosswalk from discontinued services to new services, if needed, and transition to the new rates approved in the amendments.

• All services must transition at the same time. A participant cannot transition some services at the beginning of the transition period and the rest later in the transition period.

• Shared Living providers and the agency provider he/she contracts with must complete Maximus enrollment requirements before the new service codes and rates can be authorized.
Overview of Changes in the Waiver Amendments

- Appendix C has the most significant changes, which include discontinuing some current services, adding new services, and revisions to the descriptions and limitations of existing services.
- The Intro-Main and Appendix A have minor wording changes.
- Appendices B, D, and E have a few minor changes related to eligibility, service planning, and self-direction.
- Appendix G has several changes related to incident reporting, participant rights and rights restrictions, and other participant safeguards.
- Appendix J contains the revised rate methodology for the new rates in the waiver amendments.
- Performance measures in all appendices were revised for consistency between the two waivers, and several performance measures were added in response to feedback from CMS.

Appendix C: Changes to Waiver Services
Discontinued Services

- Crisis Intervention Support, Adult Companion, and In-Home Residential Habilitation will no longer be offered.
  - Crisis Intervention Support
    - Components of this service were added to Consultative Assessment and the cap on Consultative Assessment was increased to allow use for crisis intervention.
    - This service will crosswalk to Consultative Assessment.
  - Adult Companion and In-Home Residential Habilitation
    - Components of these services were combined and split into two new services, Independent Living and Supported Family Living.
    - Both of these services will crosswalk to either Independent Living or Supported Family Living, depending on whether a participant lives alone or with his/her family.

- Participants currently using these services will have 90 days from the date the waiver amendments go into effect to transition from the discontinued services to services available under the amended waivers.
New Waiver Services

- Four new services are being added:
  - Behavioral In-Home Habilitation
  - Medical In-Home Habilitation
  - Independent Living
  - Supported Family Living

- The new services will be available for participants to use immediately when the waiver amendments go into effect.

- Independent Living and Supported Family Living are available on both the DDAD and CDD waivers, as they are taking the place of Adult Companion.

- Behavioral In-Home Habilitation and Medical In-Home Habilitation are only available on the CDD waiver.
Behavioral In-Home Habilitation

- This is a short-term, habilitative service for participants whose chronic or severe mental health condition prevents them from participating in day services, community activities, or employment opportunities.

- The DHHS-DD clinical team must give approval for use of this service before a service authorization can be approved. The clinical team also monitors use of the service on an ongoing basis.

- A habilitation program must be implemented when this service is used.

- Limitations:
  - Must be provided in the participant’s home.
  - Cannot be used in place of services offered through the educational system.
  - Considered to be a day service and counts towards the limit of 35 hours of day services per week.
  - Cannot be self-directed or offered by an independent provider.
  - Cost of transportation is not included in the rate.
Medical In-Home Habilitation

- This is a short-term, habilitative service for a participant whose chronic or severe medical condition or recent hospitalization and recovery at home prevents him/her from participating in day services, community activities, or employment opportunities.

- The DHHS-DD clinical team must give approval for use of this service before a service authorization can be approved. The clinical team also monitors use of the service on an ongoing basis.

- A habilitation program must be implemented when this service is used.

- Limitations:
  - Must be provided in the participant’s home.
  - Cannot be used in place of services offered through the educational system.
  - Considered to be a day service and counts towards the limit of 35 hours of day services per week.
  - Cannot be self-directed or offered by an independent provider.
  - Cost of transportation is not included in the rate.
Independent Living

- This is an intermittent habilitative service provided in the participant’s private home and in the community to assist with building independent living skills, including personal hygiene, laundry and other household chores, meal preparation, community activities, transportation, and social skills.

- A habilitation plan must be implemented when this service is used.

- Limitations:
  - Available to participants age 19 and older.
  - May be provided to 1 or 2 participants. Groups of 3 require DHHS-DD Central Office approval.
  - Cannot also receive Residential Habilitation, Supported Family Living, or Respite.
  - Participant and provider must be awake when service is provided.
  - Weekly cap:
    - 70 hours in CDD Waiver
    - 25 hours in DDAD Waiver
  - Transportation during the service is included in the rate.
Supported Family Living

- This is an intermittent habilitative service provided in the participant's private family home and in the community to assist with building independent living skills, including personal hygiene, laundry and other household chores, meal preparation, community activities, transportation, and social skills.

- A habilitation plan must be implemented when this service is used.

- Limitations:
  - May be provided to 1 or 2 participants. Groups of 3 require DHHS-DD Central Office approval.
  - Cannot receive this service in same day that Residential Habilitation is billed at a daily rate.
  - Cannot also receive Independent Living.
  - Participant must be awake when service is provided.
  - Weekly cap:
    - 70 hours in CDD Waiver
    - 25 hours in DDAD Waiver
  - Transportation during the service is included in the rate.
Changes to Current Waiver Services

The following current waiver services will continue but the service definitions have been revised in the waiver amendments:

- Adult Day
- Consultative Assessment
- Habilitative Community Inclusion
- Habilitative Workshop
- Homemaker
- Prevocational
- Residential Habilitation

- Respite
- Supported Employment – Enclave
- Supported Employment – Follow Along
- Transitional
- Transportation
Services with Minor Changes

- **Adult Day**
  - Participants cannot be engaged in volunteer activities when receiving Adult Day.
  - Language was revised to clearly reflect that this service cannot be provided in a residential setting.

- **Enclave**
  - A DD provider agency cannot benefit from work completed by a participant(s) receiving Enclave.
  - This service is no longer considered to be supported employment, as the participants are not employed by the community business. The business contracts with the provider agency.

- **Habilitative Workshop**
  - Habilitative Workshop can now be billed at an hourly or daily rate.
  - Daily rate must be used when providing 7 hours or more. When a provider bills the daily rate, it counts as 7 hours towards the 35 hours per week limit on day services.

- **Homemaker**
  - This service is not available to participants who receive Residential Habilitation or Independent Living.
Services with Minor Changes

➢ Respite
  • Respite can now be billed in hourly or daily units.
  • In order to bill in daily units, the service must be provided for 8 hours in a day.
  • A daily unit of respite counts as 8 hours towards the annual caps, which did not change.

➢ Supported Employment – Follow-Along
  • Supported Employment – Follow-Along now be billed at an hourly rate with an annual cap of 25 hours.

➢ Transitional
  • Clarification was added that a participant is only eligible for this service if transitioning from an ICF/DD, a nursing home, or a regional center.

➢ Transportation
  • The annual cap for Transportation was removed.
  • Language was clarified to reflect that Transportation can only be billed for the distance between two locations by the most direct route.
Consultative Assessment

- A Board-Certified Behavioral Analyst (BCBA) will now be allowed to provide this service under the supervision of a licensed psychologist, advanced practice registered nurse (APRN), or Licensed Independent Mental Health Practitioner (LIMHP).

- There are updated expectations for the functional behavioral assessment (FBA) that is completed under this service and the behavior support plan (BSP) that is developed based on the FBA.

- Ongoing monitoring, training, and analysis of the FBA and BSP are included in this service. These were elements of Crisis Intervention Support, which is being discontinued.

- It will be required that when the Consultative Assessment provider is not writing the BSP, the ISP team and the Consultative Assessment provider must both agree to the intervention strategies written in the BSP.

- The cap for Consultative Assessment was increased to 1000 hours per year. The SC can authorize up to 10 hours per month. When additional hours are needed, this requires DHHS-DD Central Office approval.
Habilitative Community Inclusion

- The requirements for the ratio of time spent in the community for this service was changed to reflect that the majority of the hours billed for Habilitative Community Inclusion each week must be provided in community integrated activities.

- Participants may now be involved in hobbies where they may earn a minimal amount of money. While they still cannot do work activities under HCI, they may engage in volunteer activities or hobbies from which minimal money is earned.
  - Minimal money means an amount of money that would not meet the participant’s basic needs/expenses or that a person could not live off of.

- HCI can now be reimbursed at an hourly or daily rate.
  - Daily rate must be used when providing 7 hours or more. When a provider bills the daily rate, it counts as 7 hours towards the 35 hours per week limit on day services.
Prevocational

- Language was added to the service definition to clarify that when Prevocational is provided in locations that are provider owned, leased or operated, the service must take place in a separate area, away from the provision of other waiver services and be provided by separate and distinct provider staff.

- Job search activities will no longer be allowed under this service, as this is related to VR and the milestone process once an IPE is developed.

- Prevocational is no longer a self-directed service and cannot be offered by independent providers.
Residential Habilitation

- Residential Habilitation now will have **three** service delivery options:
  - Continuous Home
  - Shared Living
  - Host Home

- Each of the three service delivery options is a habilitative, continuous service.

- Participants may only choose **one** service option.

- Each option is listed under the service definition for Residential Habilitation in the waiver, but each option will have its own code and rates.
Residential Habilitation (Continued)

- Participants receiving Residential Habilitation at a daily rate cannot receive Supported Family Living on the same day.
- Participants receiving Residential Habilitation cannot receive Independent Living or Respite.
- Residential Habilitation can now be billed at a daily or partial day rate.
  - Must be provided for 10 hours out of a 24 hour day to bill the full daily rate.
  - Part or all of the 10 hours in the day may be time the provider and participant are asleep (as long as this is appropriate per the participant’s ISP and all needs are being met).
- The cost of transportation is included in the rate to and from the site where Residential Habilitation is provided, and during Residential Habilitation.
Residential Habilitation – Continuous Home

Continuous Home is delivered in a provider owned, leased, or operated residential setting and provided by agency provider shift staff.

- This includes group homes, and any homes in which there is consistent/24-hour shift staff.
- In this service, the participant generally does not own or lease the home. However, there are some settings that are considered “provider operated” in which the participant may own the home, but has 24-hour shift staff. This setting would be included in Continuous Home.
Residential Habilitation – Shared Living

- Shared Living is delivered in a private home owned or leased by an independent contractor of the provider agency authorized to deliver direct services and supports.
- Shared Living is the only service in which an independent contractor (or “subcontractor”) may provide the service.
- The delivery of Host Home and Shared Living should look the same. The primary difference between the two service delivery options is whether the person providing the service is an employee or an independent contractor of the agency.
Back Up Staff

- Back-up staff can be used when the Shared Living provider is **out of the home**.

- Back-up staff:
  - May be an employee of an agency provider or may be hired by the Shared Living provider.
  - Must be chosen by the participant
  - Deliver the same habilitative services to the participant as the contracted Shared Living provider
  - Must follow the participant’s usual schedule
  - Must meet all provider qualifications of a Shared Living provider
  - Must be documented in the participant’s ISP

- The Shared Living provider cannot use back-up staff for more than **360 hours** per ISP year.
  - When back-up staff are used for less than 10 hours a day, the number of hours used counts towards the cap. If used for 10+ hours in a day, only count 10 hours towards the cap.
  - Unused back-up staff hours cannot be carried over into the next ISP year.
Support Staff

- Support staff can be used when the Shared Living provider is in the home but additional staffing is necessary to meet the needs of the participant(s) residing in the home.
- Support staff must have the same qualifications and are subject to the same requirements as backup staff.
- Support staff cannot be used continuously, 24 hours a day.
Residential Habilitation – Host Home

- Host Home is delivered in a private home owned or leased by an employee of the provider agency authorized to provide the service.

- The delivery of Host Home and Shared Living should look the same. The primary difference between the two service delivery options is whether the person providing the service is an employee or an independent contractor of the agency.
Back-up staff can be used when the Host Home provider is out of the home.

Back-up staff:

- Must be an employee of the agency provider.
- Must be chosen by the participant.
- Deliver the same habilitative services to the participant as the Host Home provider.
- Must follow the participant’s usual schedule.
- Must meet all provider qualifications of a Host Home provider.
- Must be documented in the participant’s ISP.

The Host Home provider cannot use back-up staff for more than 360 hours per ISP year.

- When back-up staff are used for less than 10 hours a day, the number of hours used counts towards the cap. If used for 10+ hours in a day, only count 10 hours towards the cap.
- Unused back-up staff hours cannot be carried over into the next ISP year.
Support Staff

- Support staff can be used when the Host Home provider is in the home but additional staffing is necessary to meet the needs of the participant(s) residing in the home.

- Support staff must have the same qualifications and are subject to the same requirements as backup staff. In the Host Home model, support staff must be agency employees.

- Support staff cannot be used continuously, 24 hours a day.
Other Waiver Changes
Appendix B & Appendix D

**Appendix B:**
- The new 5th funding priority for dependents of military members stationed in Nebraska was added.
- The minimum frequency for use of waiver services was changed from 60 days to 90 days.
- Language was added to reflect that a participant’s waiver slot can be held longer than 90 days if he/she cannot use a waiver service due to being hospitalized, receiving rehabilitation services, receiving crisis stabilization services, or being incarcerated, subject to approval from DHHS-DD Central Office.
- Some reserved capacity categories have revised language and/or increased numbers of reserved slots.

**Appendix D:**
- Requirement was added that the ISP process must include independent providers when self-directed services are provided, unless the participant chooses not to have his/her providers attend and takes responsibility for communicating the services and supports, schedule, and provider responsibilities to implement the plan to each independent provider following each meeting.
- Quarterly service reviews were added to expectations for monitoring the ISP.
Appendix G

The following categories were added as reportable incidents:

- Acute, episodic illness or change in medical condition requiring medical attention by a physician
- Injuries or displacement of a participant as a result of fire, flood, or other similar emergency or natural disaster
- Use of PRN psychotropic medication
- Behavioral episodes resulting in use of emergency safety intervention or PRN psychotropic medication, injury of the participant or others, or damage to property of total value of $150 or more
- Incidents of choking

Seclusion is no longer listed as an allowed practice.
When any rights restriction is in place, there must be a safety plan/protocol which includes the participant’s identified risk(s), any rights restrictions, and any non-restrictive supports.

Most rights restrictions must have either a habilitation program or supports to reduce the need for the rights restriction and support the participant to gain skills needed to mitigate the identified risk:

- If the risk is related to behavior, there must be a behavior support plan based on an FBA.
- If the risk is related to a lack of knowledge or adaptive skills, there must be a habilitation program to teach the participant the skills needed to reduce/eliminate the restriction.
- If the risk is related to physical disability or medical needs, habilitation is not required and the supports to reduce the need for the restriction must be documented in the ISP.

When PRN psychotropic medications are used, there are several safeguards outlined in the waiver that must be followed whether use of the medication is a rights restriction or not. These safeguards include:

- Each use must be reviewed by the ISP team. If there is more than one use per week, then use must be reviewed once weekly.
- All instruction for the administration of the PRN psych med must be included in the MAR.
Appendix I

- The rate tiers have increased from 4 tiers to 5 tiers.

- The first 4 tiers have remained the same:
  - Basic: ICAP score 65+
  - Intermediate: ICAP score 37-64
  - High: ICAP score 12-36
  - Advanced: ICAP score 1-11

- The 5th tier is a tier with rates above Advanced. The Behavioral Risk Tier will be based on results of a behavioral risk screen assessment by the DHHS-DD clinical team.

- The new rates proposed as part of the rate rebase are included in the amendments.
References

- Approved CDD Waiver (effective October 1, 2019):
  http://dhhs.ne.gov/DD%20Documents/4154%20Approved%20Waiver.pdf

- Approved DDAD Waiver (effective October 1, 2019):
  http://dhhs.ne.gov/DD%20Documents/0394%20Approved%20Waiver.pdf

- Shared Living Q&A
  http://dhhs.ne.gov/DD%20Documents/Shared%20Living%20Q&A.pdf

- New Fee Schedule Provider Bulletin
  http://dhhs.ne.gov/Guidance%20Docs/DD%20PB%2019-05%202019%20Rate%20Schedule.pdf