

**Appropriations Committee**  
**LB 936**  
**February 10, 2014**

**Jodi Fenner, Director**  
**Division of Developmental Disabilities**  
**Department of Health and Human Services**

Good afternoon, Senator Mello and members of the Appropriations Committee. My name is Jodi Fenner (J-O-D-I F-E-N-N-E-R). I am the Director of the Division of Developmental Disabilities for the Department of Health and Human Services. I am here today to testify in a neutral capacity.

The purpose of LB936 is to fund a pilot project that prioritizes and funds developmental disability services to state wards in order to provide optimal habitative supports and promote permanency. This was a concept initially proposed by the Division of Developmental Disabilities as a deficit appropriation request that was later rescinded.

Currently, the Developmental Disability Services Act and our Medicaid waiver provisions do not allow us to prioritize individuals for services merely because they are state wards. Additionally, we must be cautious not to supplant state child welfare funds with federal developmental disability waiver funds, because to do so could put our DD waiver funding at risk. Instead, the Division must assess each request for priority funding in accordance with the statutory criteria.

The Developmental Disabilities Service Act sets forth the criteria for priority funding to be available to persons in need of “sufficient food, housing, clothing, medical care, protection from abuse or neglect, and protection from harm.” In many cases, state wards do not meet these criteria as their needs are capable of being met through child welfare services. In some situations, the youth involved have significant needs related to their developmental disabilities that we can document and that require the support of specialized DD services to meet their safety and support needs. Essentially, we can document that, were it not for the involvement of Children and Family Services, we still would have prioritized these individuals for services. In those cases, we do prioritize the individuals for services and then work with Children and Family Services to get those court cases closed.

Until recently, the Division has not had the staff or technology available to track data relating to at-risk youth. We now have a service coordination team that addresses targeted caseloads, such as at-risk youth. We also have a database where we have begun collecting information to assess the progress of individuals referred to our targeted caseload team (including individuals that we prioritize and others for whom prioritization was denied).

The Division has initiated efforts to better collaborate with the Division of Children and Family Services and its contractors. We have:

- Coordinated and paid for evaluations of state wards to obtain objective, professional assessments of their need for specialized services, which resulted in some individuals being prioritized for services;
- Offered to assign DD service coordinators from our targeted caseload team to all eligible state wards, so that even if they cannot be prioritized, we can assist them in accessing helpful training and supports in the community (such as economic assistance, behavioral health services, and other Medicaid programs for which they may be eligible);
- Provided training to Children and Family Services and its contractors relating to DD eligibility and prioritization processes, to better equip them to obtain timely and acceptable assessments that can assist in expediting decisions and services related to the youth they support;
- Provided access to the DD Division's online training and guidance materials to Children and Family Services and its contractors;
- Connected Children and Family Services workers to local advocacy groups to assist them with issues, such as locating people willing to become guardians for at-risk youth and also local advocates who help to ensure that youth are provided adequate quality education services in their local communities; and
- Coordinated training programs throughout Nebraska, many of which are targeted at educators, families, and service providers who support children with developmental disabilities (a copy of the curriculum schedule is being included for your reference) – many of these sessions will be very helpful to families (both biological and foster-care families) in supporting children with challenging behaviors and conditions.

In 2013, the Division prioritized 21 at-risk youth for developmental disability services, of which 15 were state wards. Of those 15 state wards, only 3 cases resulted in obtaining permanency and closing the related court case. The remaining wards are either still in state custody or aged out of the system without obtaining permanency.

Clearly, simply providing DD funding is insufficient to get us to the goal of permanency. In addition to the efforts I have just outlined, we are also working with the Division of Children and Family Services to get additional training for our targeted caseload team of DD service coordinators so that they may begin providing case management for youth who are prioritized for DD services. We believe having one case-manager rather than several may result in better communication with the courts and continuity for families. This may further assist us in reaching our goal of permanency for youth.

While we believe a program such as the proposed pilot may be helpful in addressing the challenges of at-risk youth who are state wards, we do not have sufficient information at this time to confirm that prioritization for DD funding will actually obtain the stated goal. The data we are currently collecting may provide us more information from which to base a future decision relating to the potential for such a pilot program. We also need some time to provide the additional training needed for our targeted caseload team.

Based on my history in the Division, I appreciate this Legislature's commitment to ensuring quality DD services are provided to Nebraska citizens – and I take my responsibility to be a good steward of the taxpayers' funds very seriously. This effort is about more than simply asking for more DD aid to implement the pilot program. While this was initially proposed as a deficit request, the more we worked with the issue we simply were not convinced that we would be able to implement the program at this time with the level of accountability that we know you expect. Thus, we withdrew our request so that we could more thoroughly assess the program needs and plan for a more thoughtful implementation. We now believe it is more appropriate to continue as we are and consider a request through the biennial budget process.

From a technical perspective, LB936 provides that a state ward would be eligible for the pilot if he or she “qualifies for developmental disabilities services **or** has been assessed to need habilitative supports.” If LB936 is passed, this language should be revised to change the “or” to an “and.” It is important that eligibility for DD services be a requirement for the pilot project or the Division will not be able to utilize federal matching funds for the services or the administrative and service coordination support for the pilot program. Additionally, while habilitative services are not unique to developmental disability programs, the Division's eligibility and evaluation criteria are based upon the statutory and medical/clinical definitions of developmental disabilities; we would not necessarily be equipped to identify whether habilitative services would benefit individuals who are not eligible for DD services.

It is also important to note that the Division of Developmental Disabilities is not involved in letters of agreement between DD providers and the Division of Children and Family Services. While some DD providers do have agreements to provide services to state wards, our experience is that those services are not the full array of habilitative services we require in our DD regulations. They provide an enhanced level of foster care, similar to situations where youth have significant medical issues or behavioral health issues.

We will also be considering the responsibilities and funding issues that exist for children being served through the CFS contract with Nebraska Families Collaborative.

We appreciate your thoughtful consideration of LB936 and your continued support for state wards and people with developmental disabilities throughout Nebraska. Regardless, the Division remains committed to addressing the special needs of at-risk youth with developmental disabilities, and we will continue with the efforts that I have shared with you today. I would be happy to answer any questions you may have at this time.