

Advisory Committee on Developmental Disabilities

Meeting Minutes

April 9, 2025

I. Call to order:

Lorie Regier called to order the regular meetings of the Advisory Committee on Developmental Disabilities (DD) at 10:00 am on Wednesday, April 9, 2025 held at Conference Room P, 5220 South 16th St, Lincoln, NE and online via Zoom.

II. Roll call:

The following persons were present:

Advisory Members Present:

Dianne DeLair, Mark Shriver, Kristen Larsen, Joe Valenti, Christina Evans, Lorie Regier, Debbie Salomon, Angie Willey, Dorothy Ackland, Mike Browne, Linda Clemens (arrived at 12:20 PM)

Advisory Members Absent: Jennifer Hansen, Lisa Pruitt, Suzie Wahlgren, Jennifer Miller, Cathy Martinez, Cris Petersen

DHHS Staff: Tony Green, Kristen Smith, Jenn Clark, Tyla Watson, Colin Large

III. Approval of Agenda.

➤ Motion made by Mike Browne to table the “Medicaid Advisory Committee (MAC) and State Review Team (SRT) Recommendations” agenda item to the May meeting, seconded by Dorothy Ackland. Agenda approved as updated.

- All in Favor: Dianne DeLair, Mark Shriver, Kristen Larsen, Joe Valenti, Christina Evans, Debbie Salomon, Angie Willey, Dorothy Ackland, Mike Browne
- All Opposed: None
- Abstain from voting: None

IV. Approval of Meeting Minutes:

➤ Correction to minutes: Mark Shriver was listed as attending the March meeting. Mark attended the meeting virtually.

➤ Motion made by Joe Valenti to approve with correction. Motion seconded by Mike Browne. Motion carried.

- All in Favor: Dianne DeLair, Mark Shriver, Kristen Larsen, Joe Valenti, Christina Evans, Debbie Salomon, Angie Willey, Dorothy Ackland, Mike Browne
- All Opposed: None
- Abstain from voting: None

V. Update on 1915 (c) Medicaid Home and Community-Based Services (HCBS) Waiver submitted to Centers for Medicare and Medicaid (CMS)

➤ Summary of Comments received and Responses for both public comment periods are available on the DHHS website: <https://dhhs.ne.gov/Pages/DD-Public-Comment.aspx>

➤ How does a person move from the Aged and Disabled waiver to the Developmental Disabilities waiver?

- If someone currently is on the Aged and Disabled waiver they would need to speak to their service coordinator to ask to explore moving to another waiver.
- The eligibility team would need to complete an Intermediate Care Facility (ICF) Level of care.
- Not everyone on the Aged and Disabled waiver qualifies for the Developmental Disabilities waiver and vice versa (Nursing Level of Care vs. Intermediate Care Facility Level of Care)
- The divisional budget is set on an agency historical expenditures vs individuals budget amounts. Will there ever be a change where the independent provider budget person will be able to utilize more of their budget? Budgets are created as a guide. It isn't something someone should be shooting to use all of. Every person's needs will be different. Generally, people will use closer to the full amount when that person doesn't have natural supports and is using more specialized providers.
- Appreciate some of the changes in the waiver.
- Does Medicaid review the comments receive? Medicaid does see the comments received. Developmental Disabilities is the operating agency for Medicaid.
- Doesn't the grievance process have to be an outside entity? At this point CMS does not require an outside entity, however if this does occur we would re-evaluate the process.

VI. Elimination of Waitlist Update

- HANDOUT: Elimination of Waitlist Updates March 27, 2025
- Total of 2,479 offers have been made since March 2024
 - 1087 Offers have been accepted
 - 791 Offers are pending
 - 601 Offers have declined
- 290 Offers to be made during the month of April.
- 67 individuals have accepted

VII. Provider employee background checks and specific crimes: Dianne DeLair

- HANDOUTS: Provider Bulletin 24-04 Employee Background Checks & Specific Crimes; and Rescinded Provider Bulletin 22-05
- These are department guidelines. Providers can set additional limits on the who they hire.
- Committee comments/concerns:
 - Disability Rights Nebraska has opened several cases where an individual has been injured at a provider agency. One member was completely shocked these guidelines are so lenient.
 - This makes me question the hiring practices at agencies.
 - Either family members need to have disclosure of a staff's background check, or we go back to previous guidelines.
 - I'm all about second chances however I don't know if this should be with our most vulnerable people.
 - I'm interested in looking at something across the board.

- I am shocked. I picked an agency. I was under the impression that it would be safer. I want to believe people can change. Dignity of risk implies knowledge of potential risk. I haven't looked for red flags because I trust the provider to already have done it. Making friends is hard. As a parent I feel betrayed especially in regard to theft, abuse. I would never hire someone with a criminal record, because my husband worked in corrections. I ran my own background check. Am I allowed to say no to certain crimes. What are you doing with Abuse and neglect. Once isn't bad enough for you. You have to abuse someone 3 times before you can never be hired.
 - You absolutely have a right to say to tell your provider what your expectations are and say no to someone they hire.
 - You can ask a provider for their policies.
- A huge difference between the 2024 and the 2022 is the language using "maybe" vs "shall". From a legal perspective "shall" is very clear.
- I feel more comfortable with the 2022 list then the 2024.
- There needs to be transparency between the providers and who they are hiring with the guardians.
-
- We had a situation with a non-verbal individual unable to voice their concerns. The family could not believe this person had been hired.
- I do understand the provider pushback on this, but these are for Medicaid paid services.
- We should be doing nationwide checks. People move from other states.
- If a provider claims they can't hire anyone. I would rather support my son than put him in an unsafe situation.
- Questions:
 - Can I ask for the agency's policies or a copy of the background check? Every agency has a policy on employee background checks. You can ask that the provider get a signed release to allow them to share their employees background checks.
 - Can we make paying for a background checks a service or good? Background checks could be built in the rates.
 - Would there be different provider background requirements depending on provider type? No. A provider would be any provider: Agency, Independent, family.
 - Would we consider lowering the age of providers?
- Next steps: Disability Rights of Nebraska and DHHS to meet to begin discussing.

VIII. Direct Support Professional provider training.

- The division is requesting feedback from the committee on the Direct Support Professional (DSP) training project.
- The division is trying to avoid the conflict that has arisen in a previous quality enhancement decision regarding Mandt. DD did a significant amount of work with providers on Mandt. Multiple versions of Emergency Safety Intervention (ESI) were being used at agencies. In an effort to standardize ESI across providers, it was

determined that Mandt would be the one. After this decision was announced, concerns were expressed.

- Regarding DSP trainings, we have issues of employees moving between companies. We see some duplicative training but also differences in training. Trainings are not always consistent. Some providers are doing a really good job of training employees and some are not. In an effort to standardize DSP training, the Munroe Meyer Institute has been working on 6 modules – Very basics competency modules to get people started. The agencies would have their own trainings after those trainings.
- The topics covered in the modules are required already. This is a way to standardize training of those topics and ensure all DSP's in Nebraska have the same basic foundational elements.
- Each direct care will have to go through the 6 modules.
- Committee Comments/Questions:
 - Would recommend the Department cover the cost?
 - Will those that have been working in the field in 20 years, can they test out or do they still have to come back and do it. Or is it for new people only?
- This is not a unilateral requirement the department is pushing. The division would like to confirm the project has the support of the committee. The vision is long term we create that tiered system. Incentives building a better work force.
- Joe Valenti made a motion to confirm the committee's support of creating and requiring standardized state trained modules for Direct Support Professional Provider, 2nd by Mike Browne. Motion carried.
 - All in Favor: Dianne DeLair, Kristen Larsen, Joe Valenti, Christina Evans, Debbie Salomon, Angie Willey, Dorothy Ackland, Mike Browne
 - All Opposed: None
 - Abstain from voting: Mark Shriver

IX. Public Comment

- Shane Hunter – Shane's son died, the cause of death was sepsis. Sepsis is one of the fatal five, we are looking at Mortality review. Is now the time to consider a bridge between what is observed and what we are seeing on the provider report cards. Sepsis is the highest. Is there awareness? What is the next step? Is there training? Onsite providers audits? Is there a reason that the language is listed as "may" instead of shall between the two provider background check bulletins.

X. Beatrice State Developmental Center (BSDC)

- Current Census:
 - Permanent: 70
 - Temporary: 6
 - Total: 76
- Current 121 staff working at BSDC
- Jesse Bjerrum has been selected as the permanent BSDC administrator. He will continue supervising the statewide clinical team.
- There are a number of children that are state wards that qualify for DD services. Child and Family Services has been setting up letters of agreement with providers.

In the new world, we have more and more kids being involved in the DD system. It is growing quite a bit, including those in residential services. Looking at possibly using one of our cottages to provide crisis support to children. We would only be looking at DD eligible kids. DD and CFS will begin working with each other in July towards getting the children out of child welfare and into the DD system, when appropriate.

- Committee comment: Such a pleasure to have Jesse at the facility. Good and consistent leadership matters. Pay is important, but leadership matters. Jesse is present on the campus, walking around, talking to people and staff. That hasn't always been the case.
- Question asked what other states are doing with their ICF's and declining populations and what has the state considered. Response: Other states are looking at possibly re-purposing or rebranding facilities. Nebraska did have a study done on all adult facilities a couple of years ago, and one suggestion at that time was having one of the cottages licensed as a nursing home.
- Committee Comment: People living in the community can cost just as much as those in the facility. You are not comparing apples to apples when you compare facility and community costs.

XI. Vital Services – Family Support Waiver (FSW) Summer Program – Joshua Bumbardner

- Vital Services – is an agency service provider open in 1996. Vital is an acronym for Vocational Interest Training and Learning. Initially opened as a sheltered workshop working with Orientation Trading Company. Now does additional services.
- Regarding FSW Program - Want to mirror Lincoln Public Schools and surrounding schools breaks. Starting with Summer breaks this year, but will look at other breaks if there is a need (Winter break, spring break, ect.)
- Currently focusing on teenage groups – 2-3 groups.
- Currently taking referrals
- Going to have a van route that picks up people in the communities, meet at the hub, and then will do community integration from there.
- Team at Vital has done a really good job of finding reduce priced or cheaper activities.
- Have a section in the facility called Activity Alley – Workout center, movie theater ect.
- Goal is for kids to have a facility for the kids to go and to foster good relationships.

XII. Adjournment: Committee meeting ended at 2:00 PM

Next Meeting:
Wednesday, May 14, 2025 – In-Person

Waiver Offers March 2024 – March 27, 2025

A total of 2,479 offers have been made.

Family Support Waiver (FSW)

Accepted	783
Declined	543
Pending	385
Total	1711

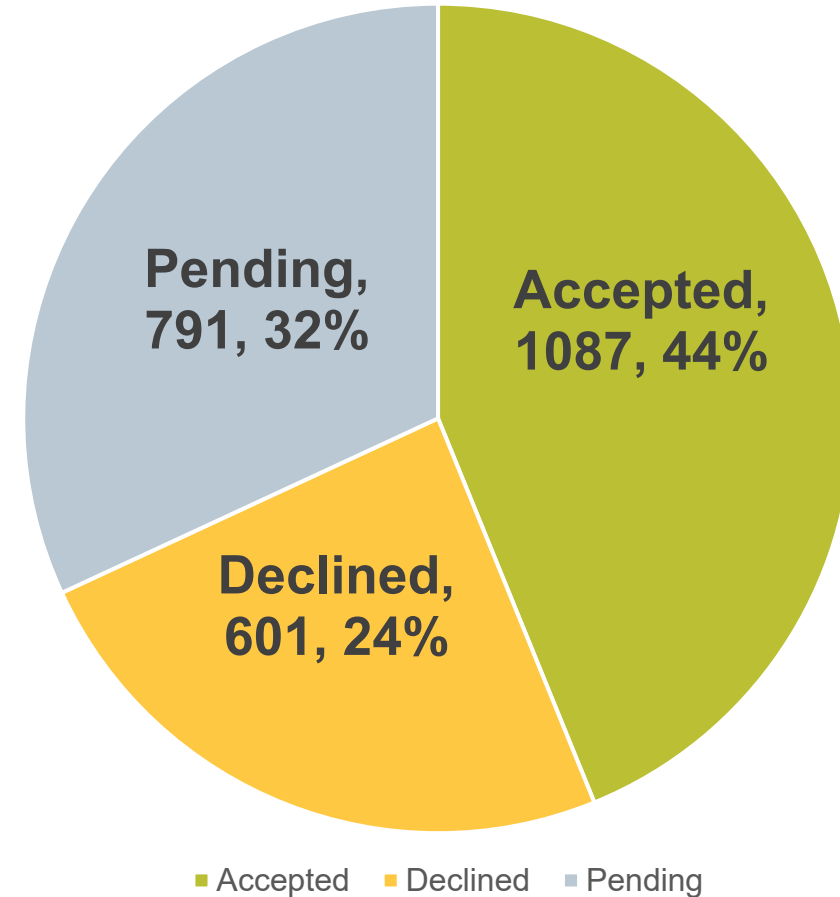
Comprehensive Developmental Disabilities Waiver (CDD)

Accepted	67
Declined	0
Pending	0
Total	67

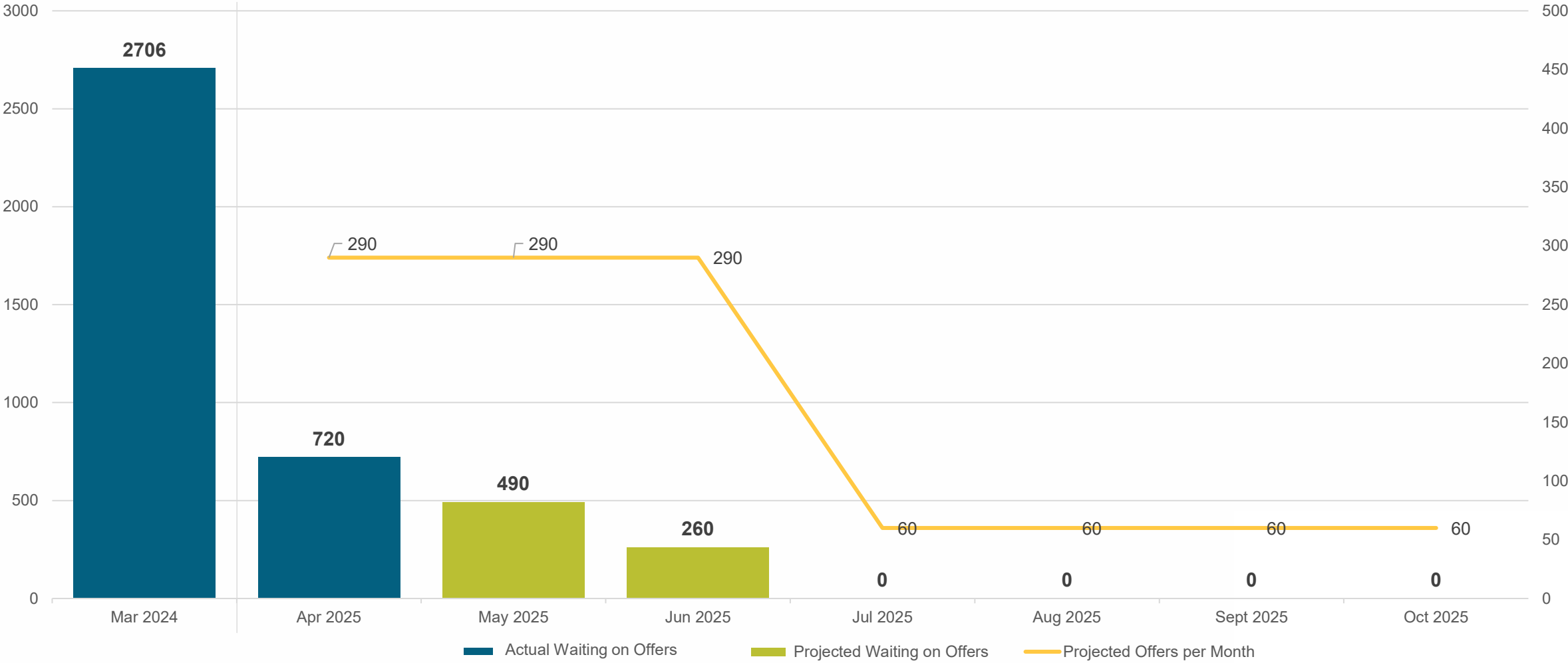
Developmental Disabilities Adult Day Waiver (DDAD)

Accepted	237
Declined	58
Pending	406
Total	701

Status of Total DD Waiver Offers

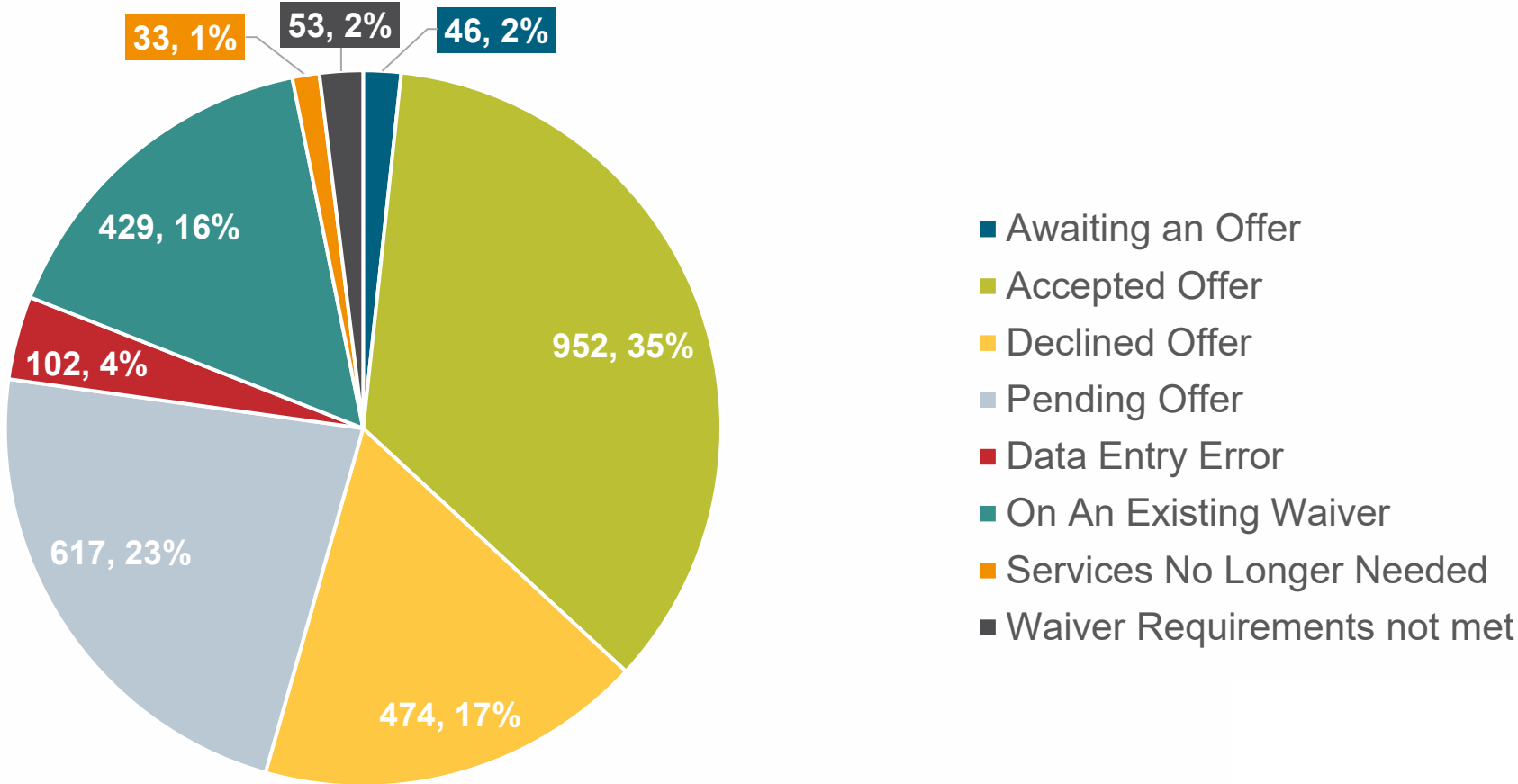


Specialized Service Offer Projections



Helping People Live Better Lives.

Registry March 2024 - Where are they now?



Final Disposition Status of individuals on the starting waitlist (3/1/2024) totaling 2706 individuals including 102 duplicate entries. Updated 3/28/25

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




PROVIDER BULLETIN

No. 24-04

DATE: September 3, 2024

TO: Medicaid HCBS DD Waiver Service Providers

FROM: Tony Green, Director Division of Developmental Disa 

BY: Miranda Newton, HCBS Waiver Coordinator

RE: Employee Background Checks and Specific Crimes

This bulletin is being issued to supplement Title 404 NAC 4-003.02 regulations regarding Employee Background Checks and Specific Crimes. This regulation requires DD waiver service providers to prohibit employees or independent contractors from working with participants served by the provider when charged, pending disposition, or convicted of certain crimes. This bulletin incorporates a list of specific crimes published on the Medicaid Program Integrity website at <https://dhhs.ne.gov/Documents/Provider%20Screening%20Guidelines.pdf>.

DD waiver service providers must prohibit employees or independent contractors from working with participants served by the provider when charged, pending disposition, or convicted of these specific crimes for the timeframes specified.

Other pending charges and convictions similar to those listed on the Medicaid Program Integrity guideline will be considered and weighted to similar offenses included in this list. In general, this includes charges and/or convictions which, if repeated, could injure or harm a participant or provider program.

If you have any questions about this provider bulletin, please contact the Program Integrity Unit at (402) 471-9147 or DHHS.MedicaidProgramIntegrity@nebraska.gov.

Provider Screening Guidelines

As of 05/31/2024

This document is used as a *guide* when conducting the Nebraska Data Exchange Network (NDEN) and Fingerprint-based Criminal Background Checks (FCBC) criminal history screenings on providers, caregivers, managing employees, and owners. The offenses listed are based off of 42 CFR 424.535, Revocation of Enrollment in the Medicare Program, and other federal guidance, including the OIG Exclusion Authorities, and the Social Security Act section 1128.

Any individualized review of an individual's enrollment is based on the review of the specific facts of the situation(s) and the possible pattern(s) of disregard for the law. Any individual involved in the delivery, or the use of Medicaid funds may be subject to screening. Per Title 471 NAC 2 005.01(A) CRIMES, the Department deems a crime to have been committed when a conviction, admission, or substantial evidence of commission exists. In exercising its discretion, the Department considers the severity of the crime(s), the applicability of the crime(s) to the service(s) of the provider, the person's role within the provider entity, and the amount of time that has passed since the commission of the crime(s). Charges and convictions that have been set aside or expunged may also be considered.

1. The following offenses are a permanent exclusion, regardless of classification:

- a. Homicide or manslaughter
- b. Child pornography
- c. Neglect, physical abuse, or sexual abuse
- d. Rape or sexual assault

2. The following offenses may be a 5-year exclusion, regardless of classification:

- a. Program-related crimes
- b. *Patient abuse or neglect related crimes

3. The following offenses may be a 5-year exclusion for a felony or a 3-year exclusion for a misdemeanor:

- a. Crimes against a person including, but not limited to assault, domestic violence, or terroristic threats
- b. Destruction of property
- c. Fraud
- d. *Controlled substance/drug related crime
- e. Involvement in Human Trafficking
- f. Robbery, burglary, or any manner of theft
- g. Weapons charge(s)

4. The following offenses may be a 5-year exclusion for those that provide transportation services:

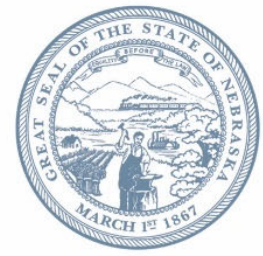
- a. Driving Under the Influence: two of any combination of DUI pending charges or convictions

5. The following offenses are an exclusion while in effect:

- a. Currently the respondent of a protection order
- b. Active warrant

*Two offenses = 10-year exclusion, three or more offenses = permanent exclusion

Other pending charges and convictions will be considered and weighted to similar offenses included in this list. In general, this includes charges and/or convictions which, if repeated, could injure or harm a Medicaid client or the Medicaid program.



PROVIDER BULLETIN

No. 22-05

DATE: December 23, 2022

TO: Medicaid HCBS DD Waiver Service Providers

FROM: Tony Green, Director of Division of Developmental Disabilities

BY: Megan Gifford, Program Specialist and Rachel Kreifels, Program Specialist

RE: Employee Background Checks and Specific Crimes

This bulletin is being issued to supplement regulations at Title 404 NAC 4-003.02 regarding Employee Background Checks and Specific Crimes. The provider must not allow employees or independent contractors to work with participants served by the provider who have been charged pending disposition or convicted of the following crimes, or similar crimes, in the State of Nebraska or any other jurisdiction:

1. Homicide or manslaughter
2. Possession or distribution of child pornography
3. Human trafficking, sex trafficking, or labor trafficking
4. Neglect, physical abuse, or sexual abuse
5. Rape or sexual assault
6. Offenses of whatever kind or nature against a child or vulnerable adult
7. Convictions for which registration as a sex offender is required
Permanent exclusion, regardless of classification
8. Medicaid fraud, waste, or abuse crimes*
9. Abuse, neglect or exploitation related crimes against Medicaid participant*
5 year exclusion from date of conviction, regardless of classification
10. Assault, domestic violence, or terroristic threats
11. Fraud
12. Controlled substance/drug use, possession or distribution related crime*
13. Prostitution
14. Solicitation of prostitution
15. Robbery, burglary, or any manner of theft
Felony: 5 year exclusion from date of conviction
Misdemeanor: 3 year exclusion from date of conviction

16. Driving Under the Influence: two of any combination of DUI charges pending or convictions
3 year exclusion from date of most recent conviction
5 year exclusion from date of most recent conviction for Transportation and PAS providers providing transportation

17. Currently the respondent of a protection order
Duration of protective order

*Two offenses= 10 year exclusion; three or more offenses= Permanent exclusion

Other pending charges and convictions will be considered and weighted to similar offenses included in this list. Generally speaking this includes charges and/or convictions which, if repeated, could injure or harm a participant or provider program.

If you have any questions about this provider bulletin, please contact Miranda Newton (402) 471-8037 or miranda.d.newtson@nebraska.gov.

Rescinded 2024

June 2nd
through
August 1st

MON-FRI
9AM-3PM



Vital

SUMMER PROGRAM

LOCATION: VITAL SERVICES, INC
6400 CORNHUSKER HWY. LINCOLN, NE
IN OUR NEWLY RENOVATED SPACE



SUMMER FUN

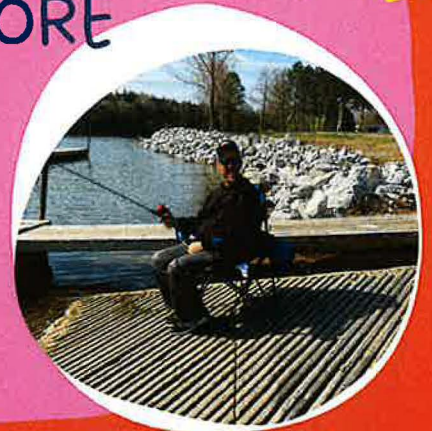


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for fun GALORE

ZOO TRIPS
BOWLING
MOVIES

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AND SO MUCH MORE!!!



Contact Josh Bumgardner for more information
jbumgardner@vitalservices.org or 402-465-5664

TRANSPORTATION MAY BE PROVIDED