

Response to Public Comment on CDD and DDAD Waiver Changes

To provide clarity and consistency in our responses, responses are noted here by category, reflected in the itemized summary of comments and questions received by the Department of Health and Human Services (DHHS) Division of Developmental Disabilities.

Removal of Services

The Division received 71 comments related to the removal of Consultative Assessment Service on the Comprehensive Developmental Disabilities Services Waiver (CDD) and the Developmental Disabilities Day Services Waiver for Adults (DDAD)

Public comments regarding the removal of the Consultative Assessment highlighted several significant concerns. Many stakeholders warned that eliminating these services would shift the system away from a preventative model and toward a crisis-response approach, increasing overall risk for individuals and communities. Commenters also expressed concern that removing an independent and objective consultation function could weaken the quality and impartiality of assessments. Additionally, they noted that the change could accelerate workforce attrition—particularly in rural areas where provider capacity is already limited.

Response:

Under Medicaid rules, waiver services must be distinct and not duplicate services that are otherwise available through the State Plan administered through Nebraska's Heritage Health program. Under Nebraska's Heritage Health program, MCOs already cover various consultative assessments, particularly those related to behavioral health. Recent updates to the Medicaid program defining Applied Behavior Analysis (ABA) assessments as covered services and equivalent to Functional Behavior Assessments (FBAs) created a duplication in services between the State Plan and Waiver.

A waiver-funded Consultative Assessment cannot overlap with behavioral health assessments already covered by an MCO, replace an assessment that should be billed to the MCO, or duplicate an evaluation already completed or authorized through the MCO network. Functional Behavior Assessments (FBAs), which were the focus of the Consultative Assessment service, are covered under Medicaid as Applied Behavior Analysis (ABA) assessments and are available through the MCOs. Providers offering FBA services are encouraged to credential with the MCOs in order to continue providing FBA/ABA assessments to participants when needed.

At this time, the division does not believe additional changes to the proposed waiver language are necessary.

Evaluation & Reevaluation of Level of Care

The Division received two comments related to the interRAI assessment used for Level of Care.

Public comments regarding the interRAI assessment expressed concern that it may not fully capture the full scope of individuals' daily support needs, particularly in areas such as behavioral variability, medical complexity, safety risks, and required levels of supervision. Commenters also reported concerns about

potential scoring inaccuracies and the limited ability of the assessment to reflect trauma-related impacts or episodic behaviors.

Response:

Changes regarding participant access and eligibility were limited to specifying who may be included in the assessment and observation and clarifying that assessments must be conducted prior to the participant's budget year.

No changes were made to the assessment tool or the objective assessment process. **At this time, the division does not believe additional changes to the proposed waiver language are necessary.**

Provider Requirements

The Division received one comment related to MCO licensure requirements to bill for FBA services

The Public comment regarding the credentialing requirements for MCOs raises concerns that some providers may not meet the credentialing requirements for the services under the MCOs

Response:

Thank you for your comment. The Division of Medicaid and Long-Term Care oversees the Managed Care Organizations (MCOs) and may be able to better assist you with your request. You may also reach out directly to the respective MCO network contacts listed below:

Molina Healthcare – Provider Contracting Department

Email: NEContracting@molinahealthcare.com

Phone: (844) 782-2678

Nebraska Total Care – Credentialing information available at:

<https://www.nebraskatotalcare.com/providers/credentialing.html>

UnitedHealthcare – Network participation information available at:

<https://www.uhcprovider.com/en/resource-library/Join-Our-Network/Medical-Provider.html>

Please contact the appropriate organization directly for further assistance.

At this time, the division does not believe additional changes to the proposed waiver language are necessary.

Service Caps

The Division received one comment related to service caps on the CDD and DDAD Waiver.

The public comment regarding the service cap indicates concerns that the cap is set too low, that the formula used to calculate the cap may be flawed, and that the cap could result in harm to individuals served under the waiver.

Response:

There are no proposed caps associated with the current amendments to the CDD and DDAD waivers. Both CDD and DDAD utilize the ICF level of care, and individuals enrolled in these waivers have individualized budgets based on their specific needs as determined through an objective assessment process.

At this time, the division does not believe additional changes to the proposed waiver language are necessary.

Other Questions and Comments

The Division received one other question and comment that relates to funding to build complexes like the Sheltering Tree and concerns over providers not wanting to provide adequate services moving individuals into institutions.

Response:

CDD and DDAD waiver services provide individualized, in-home supports for individuals with intellectual and developmental disabilities. These services are designed to promote independence, build essential life and employment skills, and support individuals in obtaining and maintaining competitive, integrated employment within their communities.

At this time, the division does not believe additional changes to the proposed waiver language are necessary.