Nebraska Department of Health and Human Services

Nursing Facility Level of Care (NF LOC) Assessment Tool and Criteria

Recommendation Report

June 29, 2020

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Executive Summary

This report provides **Optumas'** final recommendations on the assessment tools and criteria used for Adult and Child Nursing Facility Level of Care (NF LOC) determination in Nebraska. Research on this topic included a review of other states' tools, best practices, and interviews with Nebraska's Department of Health and Human Services (NE DHHS) staff, and the Lincoln-based League of Human Dignity. Based on the findings of this research, **Optumas** recommends that NE DHHS replace the current LOC Assessment tools (both Adult and Child) used in Nebraska for determining NF LOC.

To place the Nebraska NF LOC determination tools and criteria in context, **Optumas**, in partnership with Alvarez & Marsal (A&M), undertook a review of NF LOC tools and criteria in other states to understand the manner in which NF LOC determinations were being done across the country. It was observed that there exists a wide variation in the kinds of assessments used for NF LOC. A large percentage of states use some form of homegrown (i.e. internally developed) tool, yet at the same time, there is interest in and movement towards use of standardized tools across states. The interRAI suite of tools stood out as a commonly adopted tool; it is currently being used, is being piloted, or has at some point been considered in 25 states.[1] The InterRAI suite of tools are all considered standardized tools. Standardized assessment tools are validated, have training materials available, and can be easier to implement than homegrown tools. There is also variation among states regarding who (e.g. state Medicaid or HCBS operating agency, a local health department or Aging and Disability Resource Center, county board, a state vendor) completes the level of care assessments. Assessments are typically done in person, in an individual's home. There is no federal requirement for a specific NF LOC assessment tool. Seven peer states' NF LOC assessment tools and criteria were evaluated in further depth.

A series of options for altering or replacing the existing tools for both Adult and Children NF LOC determination were evaluated. Through this process, it was determined that the Adult NF LOC Assessment tool being utilized does collect the data points necessary to make a NF LOC determination based on current promulgated regulations. However, it was also determined that the current assessment tool used for adults lacks specificity in response measurement and covers an inadequate number of domains. The tool used for children has similar issues and would benefit from being updated or replaced. The Child NF LOC Assessment tool being utilized also collects the data points necessary to make a NF LOC determination based on current promulgated regulations. However, addressing the changes suggested in this report would bring Nebraska's tools into closer alignment with best practices and provide more substantive data on the populations of interest. Ultimately, **Optumas** recommends that the State adopt the interRAI Home Care (HC) and Pediatric Home Care (PEDS-HC) tools for Adult and Child NF LOC determination, respectively as a standardized tool has significant benefits to Nebraska.

This report also provides a recommendation on the criteria used in NF LOC eligibility determinations for adults and children. Based on research of other states' criteria, **Optumas** recommends that NE DHHS consider changes to the current criteria (both Adult and Child) used in Nebraska for determining NF LOC eligibility. These recommended changes to criteria will be noted as **RECOMMENDED CHANGE** throughout the report. Please note that any changes in criteria will have subsequent population impacts which must

[1] Minnesota Department of Human Services Legislative Report: Waiver Reimagine Project, available on-line: https://www.leg.state.mn.us/docs/2019/mandated/190433.pdf

be evaluated before changes in criteria are implemented. Changes in criteria may also require changes in the regulation(s) referencing the standardized assessment tool(s) being used. **Optumas'** summarized recommendations on tools and criteria can also be found in the section titled 'Final Recommendations'.

Understanding the population impacts of any change to NF LOC assessment tools or criteria is critical when evaluating the next steps in implementation. Evaluating the LOC status of a sample of the existing population, under the current and proposed tools and criteria, will offer the State insight into whether groups of individuals are gaining or losing NF LOC status under the proposed changes. Validating the updated tools and criteria in this way will allow the State to understand the potential adverse effects of updating the NF LOC process more accurately. While validation of the redesigned/new tool may be possible within a sample of the NF eligible population in Nebraska, the existing State-level data are not detailed enough to enable a traditional population impact analysis at this time. Initial analysis of the limited data shows that less than 1.5% of applicants meeting either Adult or Child NF LOC will be impacted by the changes to LOC criteria. To improve the accuracy of this population impact estimate, **Optumas** recommends DHHS perform concurrent assessments as part of the formal Population Impact Study of the tools and criteria. While the existing homegrown tool would be used to formally determine NF LOC during this period, the InterRAI tool would also be administered as a concurrent comparison to highlight any differences in final determinations. This process would ensure the State has the best possible understanding of the impact that any NF LOC determination process changes may have on their population.

Addressing and implementing the recommendations included in this report will require significant buy-in from State staff. While **Optumas** recommends that the State continue to evaluate and improve the NF LOC determination process, the recommended changes included in this report would represent a significant improvement and alignment with national best practices. For a more detailed discussion of all **Optumas** recommendations, please review the report below.

Purpose and Background

The Department of Health and Human Services (DHHS) provides funding and oversight for the Medicaid Home and Community-Based Services waivers. This oversight includes the assessment of individuals' Nursing Facility Level of Care to determine eligibility for waivers, the provision of service coordination for eligible individuals, and the monitoring and paying of providers.

The Nebraska Division of Developmental Disabilities (DDD) provides funding and oversight for Medicaid home and community-based developmental disabilities waiver services. This includes determining eligibility, providing service coordination for eligible people, monitoring services, and paying DD providers. Medicaid provides health care services to eligible elderly and disabled individuals and low-income pregnant women, children, and parents. In 2020, the administrative functions of the Aged and Disabled (AD) and Traumatic Brain Injury (TBI) waivers moved from the Division of Medicaid and Long-Term Care (MLTC) to DDD to improve the customer experience and streamline waiver-related processes. Under the current structure, DDD administers home and community-based services for individuals who qualify for Medicaid waivers, such as the elderly, adults and children with disabilities, and infants and toddlers with special needs. DDD is working to design the most appropriate and effective Nursing Facility Level of Care (NF LOC) assessment tools to achieve their mission of "helping people live better lives".

The purpose of this report is to present **Optumas'** findings after reviewing Nebraska's current Nursing Facility Level of Care Assessment Tools and Criteria. The results of **Optumas'** analyses and subsequent recommendations regarding the LOC Assessment Tools are included herein. All information contained is intended to support the DHHS in examining, evaluating, and redesigning the NF LOC Assessment Tools and Criteria.

The variety of options and recommendations for DHHS presented here are based on the following:

- **NF LOC in Other States** – The **Optumas** team reviewed literature to identify other states' tools, criteria, and current best practices in LOC assessment tools for Medicaid populations potentially eligible to receive NF services.

- **Independent Evaluations of Other States' LOC Assessment Tools** – To ensure a comprehensive review of LOC assessment tools for NF settings, the **Optumas** team reviewed meta-analyses across multiple states' LOC assessment tools as well as independent evaluations of Medicaid LOC assessment tools for NF settings.

- **Review of NE NF LOC Assessment Tools and Processes** – The **Optumas** team reviewed the current NE NF LOC assessment tools and processes for adults and children to determine if they comport with best practices and achieve Nebraska's policy goals for those potentially eligible to receive NF services.

- **Other States' NF LOC Assessment Tools and Criteria** – The **Optumas** team compiled NF LOC assessment tools and criteria from other states, identified the parts of those tools that are consistent with Nebraska NF LOC eligibility criteria, and stated policy goals for placement in NF settings.

Nursing Facility Level of Care in Other States

In order to receive Medicaid Long Term Services and Supports (LTSS), regardless of whether an individual will receive supports in the community through home and community-based services (HCBS) or in a facility, an individual must be eligible for Medicaid (through income and asset limits, residency requirements, etc.), and must meet functional eligibility requirements known as “level of care” or “LOC” criteria.[2] This report focuses on functional eligibility. Individuals who meet the general Medicaid eligibility criteria will be referred to as “otherwise eligible”.

States may only provide HCBS Waiver services to individuals who they determine to require the level of care furnished in a hospital, nursing facility, or intermediate care facility for individuals with intellectual disabilities (ICF/IID or ICF). The waiver application itself specifies the level(s) of care required to receive services under the waiver. In this way, level of care is part of how a state specifies the target population of individuals who may utilize HCBS waiver services.[3] Level of care is determined initially upon admission to a facility or waiver program and then recertified at least annually.[4]

There is no federally required formula, tool, or set of factors to measure level of care. As a result, there is considerable variation in LOC definitions and tools around the country to collect and analyze information on an individual’s condition and functional limitations.[5] Level of care assessment tools may look to diagnoses and conditions; limitations on ability to perform activities of daily living (ADLs), instrumental activities of daily living (IADLs), and other major life activities; adaptive behaviors; cognitive and behavioral status; medical, clinical, or nursing needs; and availability of informal supports, the individual’s environment, and psychosocial needs.[6] Nonetheless, there are some themes across states. For example, all state NF LOC rules emphasize ADLs.

Table 1 is a listing of common criteria and indicators from NF LOC assessments:[7]

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[2] MACPAC Report to Congress on Medicaid and CHIP, Ch 4: Functional Assessments for Long-Term Services and Supports (2016), p 69, available on-line at: https://www.macpac.gov/publication/functional-assessments-for-long-term-services-and-supports/. (“MACPAC”)

[3] Application for 1915(c) Home and Community-Based Waiver: Instructions, Technical Guidance, and Review Criteria (CMS January 2019) p 66, available on-line at: https://wms-mmdl.cms.gov/WMS/help/35/Instructions_TechnicalGuide_V3.6.pdf. (CMS Technical Guide).

[4] 42 CFR 442.302(c).

[5] MACPAC at p 68. *N.B.,* In January 2020, the Institute on Community Inclusion’s Research and Training Center on Home and Community Based Services (HCBS) Outcome Measurement launched a free, interactive national map of state service eligibility requirements, called the HCBS Assessment Tools database, available on-line at: https://rtcom.umn.edu/database.

[6] MACPAC at p 75-76.

[7] HCBS LOC Eligibility at p 16.

Table 1: Common Nursing Facility Level of Care Criteria and Indicators

ADLs	IADLs	CLINICAL	MEDICAL	SAFETY	COGNITION

• Transfers
• Locomotion
• Bed mobility
• Upper dressing
• Lower dressing
• Eating
• Toileting
• Personal care
• Bathing
	• Grocery shopping
	• Laundry
	• Light housework
	• Meal preparation
	• Medication management
	• Money management
	• Personal hygiene
	• Transportation
	• Using phone to accomplish tasks
	• Bill paying
	• Scheduling medical appointments
	• Other shopping tasks
		• Assistive devices
		• Treatments and procedures
		• Rehabilitative services
		  ▪ Tube feeding
		  ▪ Wound care
		  ▪ Occupational therapy
		  ▪ Ventilator care
			• Medical history
			• Mental health history
			• Vital signs
			• Medications
			• Medical conditions
			• Diagnoses
			• Special treatments or diet
				• Environmental factors/problems
				• Living conditions
				• Risk evidence
					• Memory
					• Behavior
					• Communication
					• Sensory orientation
					• Assessment of social situation
					• Expression

Nursing Facility Level of Care Assessment Tools

States often use different instruments for different populations. For example, a state may use one tool for individuals with intellectual and developmental disabilities; and another for those with physical disabilities.[8] Tools vary in length and complexity. They may be paper-based, electronic, or web-based. Tools may also be homegrown, customized, or a standardized tool, like the interRAI.[9]

Most states use at least one tool that they developed themselves.[10] A 2015 MACPAC study of all 50 states and the District of Columbia found that:

> "Nearly every state (49 of 51) used at least one tool for either eligibility determination or care planning that was state-specific. Only two states used independently developed tools exclusively. However, 28 states used one or more tools developed independently, such as the Supports Intensity Scale (American Association on Intellectual and Developmental Disabilities) and the interRAI Home Care Assessment System (interRAI), alongside the state-specific tools. Another five states used a combination of nationally used tools and tools adapted by the state from existing tools."[11]

At the same time, there is interest in and movement towards use of a standardized tool across states. A 2018 study for the State of Missouri found that "the interRAI-tool is being either used, piloted or at some

[8] MACPAC at p 75.
[9] HCBS LOC Eligibility at p 15.
[10] MACPAC at p 75.
[11] *Id.*

point considered in 25 states."[12] Tools like the interRAI are validated, have training materials available, and are generally "perceived [by states] as easier to implement."[13]

The Kansas University Research and Training Institute on Independent Living describes the value of a universal, standardized assessment:

> "A universal, standardized assessment is a critical tool for streamlining access to care for people seeking services. A well-designed assessment instrument can be used to not only determine eligibility for public programs, but may also provide other functions such as care planning, data collection, rate setting and quality assurance. A universal assessment can also: promote choice for customers when the assessment determines eligibility for multiple programs; reduce administrative burdens by decreasing the need for staff to perform multiple assessments; promote equity by using the same assessment criteria for all individuals in need of services; and capture standardized data that will help policymakers analyze program effectiveness."[14]

There is also variation regarding who completes the level of care assessments – it may be a state Medicaid or HCBS operating agency, a local health department or Aging and Disability Resource Center, county board, a state vendor, or others.[15] Regardless, the level of care assessment is typically done face-to-face and in the individual's home.[16]

Federal Landscape

While there is no federal requirement for a specific level of care assessment tool, there are some overall federal requirements regarding these assessments, including:

- The assessment to determine eligibility for nursing facilities must be ordered and provided under the direction of a physician.[17]
- Nursing facilities must conduct comprehensive assessments to determine each resident's functional capacity soon after admission and no less than once every 12 months (more often if there is a change in condition that requires a new assessment in the interim), and the assessment should be conducted or coordinated by a registered professional nurse.[18]

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[12] Technical Assistance Report to the State of Missouri Department of Health and Senior Services on the Nursing Facility Level of Care Transformation (Princeton University, Go Long Consulting, 2018), p 6, available on-line at: https://health.mo.gov/seniors/hcbs/loc-transformation.php. ("Report to MO DSDS")
[13] MACPAC at 78.
[14] Medicaid Functional Eligibility Instrument, Kansas University Research and Training Center on Independent Living, available on-line at: http://rtcil.org/training-medicaid-functional-eligibility. (MFEI-RTCIL).
[15] MACPAC at p 70.
[16] *Id.*
[17] MACPAC at p 73, *citing* 42 CFR 440.40(a).
[18] MACPAC at p 73, *citing* § 1919(b)(3) of the Social Security Act.

- HCBS waiver eligibility must be limited to those who require a level of care equivalent to that provided in an institution.[19]

While states are not required to use the same tools for level of care for institutional and community-based services, the outcomes of the assessment must be equivalent. This is because states must demonstrate that the individuals who are eligible for home and community-based services, would "but for the provision of waiver services, would otherwise be institutionalized in such a facility."[20]

Discussion of Level of Care Criteria and Tools in Peer States

Given the limited federal requirements, there is considerable variety in the type and quantity of information that is publicly available on level of care at the state level, as evidenced in discussion below regarding level of care in seven states: Colorado, Iowa, Kansas, Missouri, Idaho, North Dakota, and South Dakota. Specifically, some states publish specific detail about functional eligibility requirements, while others are short with limited details.

Colorado

By statute, eligibility criteria for home and community-based services for individuals who are "elderly, blind, or physically disabled" includes that those individuals must be "in need of the level of care available in a nursing home."[21]

Colorado has three adult-aged target populations for whom they use a NF LOC:

1. **Functionally Impaired Elderly**: includes all individuals who meet the level of care screening guidelines for Skilled Nursing Facility (SNF) or ICF/IID care, and who are age 65 or over. Individuals with a mental illness are not included in this group unless the individual's need for long term care services is primarily due to physical impairments that are not caused by any diagnosis included in the definition of mental illness.[22]

2. **Physically Disabled or Blind Adult:** includes all individuals who meet the level of care screening guidelines for SNF or ICF/IID care, and who are age 18 through 64. Individuals with a developmental disability or mental illness are not to be included in the Physically Disabled or Blind target group, unless the individual's need for long term care services is primarily due to physical impairments not caused by any diagnosis included in the definition of intellectual or developmental disability or mental illness.[23]

3. **Persons Living with AIDS:** includes all individuals of any age who meet either the nursing home level of care or acute level of care screening guidelines for nursing facilities or hospitals, and have the diagnosis of Human Immunodeficiency Virus (HIV) or Acquired Immune Deficiency Syndrome

[19] MACPAC at p 73, *citing* § 1902(a)(10) (A)(ii)(VI) of the Social Security Act.
[20] 42 CFR 442.302(c).
[21] C.R.S. 255.5.-6-306(1).
[22] 10 CCR 2505-10 8.400.16C.
[23] 10 CCR 2505-10 8.400.16D.

(AIDS). Individuals who are diagnosed with HIV or AIDS may alternatively request to be designated as any other target group for which they meet the definitions above.[24]

Individuals in these target groups who meet level of care may receive LTSS in one of Colorado's HCBS waivers, or in a nursing facility.

Colorado uses the Uniform Long-Term Care (ULTC) instrument for all its waiver level of care evaluations and re-evaluations, as well as all institutional placements.[25] This homegrown tool was developed in 2006 and validated by State Medicaid Agency Staff.[26] The ULTC includes a functional assessment and a Professional Medical Information Page (PMIP). Level of care is determined by the Community- Centered Boards.[27] This is the same process for adults and children.[28]

- Functional Assessment: The functional assessment measures six defined Activities of Daily Livings (bathing, dressing, toileting, mobility, transferring, and eating) and the need for supervision for behavioral or cognitive dysfunction.[29]
- PMIP: The medical professional verifies the client's need for institutional level of care.[30]
- Some waivers also require additional information on Instrumental Activities of Daily Living (IADL). This supplemental assessment considers a client's independence level for activities such as money management, medication management, household maintenance, transportation, meal preparation, hygiene, shopping, and accessing resources.[31]

To qualify for Medicaid long term care services, the applicant must have deficits in two of six ADLs (2+ score) or require at least moderate (2+ score) in Behaviors or Memory/Cognition under Supervision.[32] The 6 ADL categories are: mobility; bathing; dressing; eating; toileting; and transferring. In Supervision, behavior looks at the individual's ability to engage in safe actions and interactions and refrain from unsafe actions and interactions. Memory/Cognition examines the individual's age-appropriate ability to acquire and use information, reason, problem solve, complete tasks, or communicate needs to care for oneself safely.[33]

Iowa

To receive Medicaid HCBS in Iowa, an otherwise eligible individual must "be certified as being in need of Nursing Facility or Skilled Nursing Facility Level of Care or as being in need of care in an intermediate care

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[24] 10 CCR 2505-10 8.400.16E.
[25] *Id.*
[26] Report to MO DSDS at p53.
[27] *See* Colorado's Home and Community Based Services waivers, available on-line at: https://www.medicaid.gov/medicaid/section-1115-demo/demonstration-and-waiver-list/index.html. (CO HCBS Waivers).
[28] *Id.*
[29] 10 CCR 2505-10 8.401.11.
[30] CO HCBS Waivers.
[31] *Id.*
[32] 10 CCR 2505-10 8.401.15.
[33] CO HCBS Waivers.

facility for persons with an intellectual disability."[34] This determination is based on information submitted on a completed interRAI tool and other supporting documentation as relevant.[35]

To receive nursing facility care in Iowa, an individual must demonstrate need of such care through certification of level of care by both a physician and through the Iowa Medicaid Enterprise (IME).[36] The NF LOC is also used to determine eligibility for Medicaid HCBS waiver services for youth and adults with physical disabilities, elderly individuals, individuals living with Traumatic Brain Injury (TBI), and individuals living with HIV/ AIDS.[37] Specifically, the NF LOC is one of the eligibility criteria for the following waivers:

- HCBS Health and Disability Waiver
- HCBS Elderly Waiver
- HCBS AIDS Waiver
- HCBS Traumatic Brain Injury Waiver
- HCBS - Physical Disability Waiver[38]

The NF LOC is defined as having the following conditions met:

1. The presence of a physical or mental impairment which restricts the person's daily ability to perform the essential activities of daily living, bathing, dressing, and personal hygiene, and impedes the member's capacity to live independently.
2. The person's physical or mental impairment is such that self-execution of required nursing care is improbable or impossible.[39]

Iowa uses the InterRAI suite of tools for standardized assessments for its waiver level of care evaluations and re-evaluations of children 4 years and older, as well as adults. The interRAI collection of assessment tools was designed to be a "compatible assessment instrumentation that could be used across health care sections."[40] InterRAI tools are built based upon a core set of assessment items that are common across tools, with specific items related to populations and care settings added on.[41] A complete interRAI assessment system includes the following: a data collection form, a user manual, triggers, clinical assessment protocols, and status and outcome measures.[42]

[34] IAC 441-83.2(1)
[35] *Id.*
[36] IAC 441-81.3(1)(249A).
[37] *See* Iowa's Home and Community Based Services waivers, available on-line at: https://www.medicaid.gov/medicaid/section-1115-demo/demonstration-and-waiver-list/index.html. (IA HCBS Waivers).
[38] *Id.*
[39] IAC 441-83.81(249A) Definitions (HCBS Health and Disability Waiver Services); 441-83.21(249A) Definitions (HCBS Elderly Waiver Services); 441-83.41(249A) Definitions (HCBS AIDS/HIV Waiver Services); 441-83.81(249A) Definitions (Brain Injury Waiver Services); 441-83.101 249A) Definitions (Physical Disability Waiver Services).
[40] An Overview of the interRAI Suite, available on-line at: https://www.interrai.org/instruments/.
[41] *Id.*
[42] *Id.*

- The interRAI Home Care (HC) assessment was developed for use with adults in home and community-based settings. The instrument is generally used with the frail elderly or persons with disabilities who are seeking or receiving formal health care and supportive services.[43] This tool is currently used to as a waiver assessment in the following states: Connecticut, Iowa, Maryland, Michigan, Mississippi, Missouri, and Pennsylvania.

- The interRAI Pediatric Home Care Assessment (PEDS-HC) was developed for use in programs serving children with special health care challenges to assess the home care challenges of children and youths, ages 4 -20 (in the USA), who are seeking or receiving long-term services or supports.[44]

Areas of review include:

- cognitive,
- mood and behavior patterns,
- physical functioning – mobility,
- skin condition,
- pulmonary status,
- continence,
- dressing and personal hygiene – ADLS,
- physical functioning – eating,
- medications,
- communication/hearing/vision patterns, and
- prior living - psychosocial.

Iowa uses several tools in the interRAI collection, and state regulations require that an individual be certified as meeting level of care based upon information from these tools.[45]

- Ages 0 – 3 (does not use the interRAI)
  - Case Management (CM) Comprehensive Assessment
- Ages 4 -20
  - interRAI – Pediatric Home Care (PEDS-HC)
  - interRAI Child and Youth Mental Health (ChYMH)
- Ages 21-64
  - interRAI – Home Care (HC)
  - interRAI Community Mental Health (CMH)
- Ages 65+
  - interRAI – Home Care (HC)

[43] interRAI Home Care, available on-line at: https://www.interrai.org/home-care.html.

[44] interRAI Pediatric Home Care, available on-line at: https://catalog.interrai.org/PEDS-HC-pediatric-home-care-manual.

[45] IAC 441-83.82(249A) Eligibility (HCBS Health and Disability Waiver Services); 441-83.22(24A) Eligibility (HCBS Elderly Waiver Services); 441-83.42(249A) Eligibility (HCBS AIDS/HIV Waiver Services); 441-83.82(249A) Eligibility (Brain Injury Waiver Services); 441-83.102 249A) Eligibility (Physical Disability Waiver Services).

- interRAI Community Mental Health (CMH)

Kansas

To receive Medicaid HCBS in Kansas, an otherwise eligible individual must be assessed to need long-term services and supports in an institutional setting and choose to receive HCBS in an available waiver.[46] In addition, Kansas provides HCBS for individuals transitioning from a nursing facility who meet the following age and disability-related requirements:

- Is 65 years old or older; or
- Is 18 – 64 years old and physically disabled according to Social Security Administration criteria; or
- Is 16 – 65 years old and has a traumatically acquired head injury requiring care in a rehabilitation facility as determined by screening and has been the in the facility for at least 90 days.[47]

Kansas operates the Client Assessment, Referral and Evaluation (CARE) program, which includes individual assessment and referral to community-based services and appropriate placement in long-term care facilities. The CARE assessment is an "evaluation of an individual's health and functional status to determine the need for long-term care services and to identify appropriate service options which meet these needs utilizing the client assessment, referral and evaluation (CARE) form."[48]

Kansas uses a NF LOC for two waivers: the Physical Disability Waiver and HCBS for the Frail Elderly.[49] It uses a Hospital level of care for the HCBS Traumatic Brain Injury Waiver, among others.[50]

Kansas uses the Medicaid Functional Eligibility Instrument-Level of Care (MFEI-LOC) to determine level of care for the Physical Disabilities Waiver (16 – 64 years old), Traumatic Brain Injury Waiver (16 – 64 years old), and Frail Elderly Waiver (65 years and older).[51] It is also used for nursing home populations.[52] The MFEI is a universal suite of instruments based on the interRAI instruments, with state-specific adaptions applied to the base interRAI tool in collaboration with stakeholders.[53]

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[46] K.A.R. 129-6-82.
[47] *Id.*
[48] *Id. N.B.,* The CARE manual, which includes instructions for the assessment and questions, is available on-line at: https://www.kdads.ks.gov/docs/default-source/commissions/client-assessment-referral-and-evaluation-(care)/care-provider-information/care-manuals/care-manual.pdf?sfvrsn=3d8e05ee_2.
[49] *See* Kansas' Home and Community Based Services waivers, available on-line at: https://www.medicaid.gov/medicaid/section-1115-demo/demonstration-and-waiver-list/index.html. (KS HCBS Waivers).
[50] *Id.*
[51] KS HCBS Waivers.
[52] MFEI-RTCIL.
[53] Medicaid Functional Eligibility Instrument-Level of Care Introduction, Kansas Department on Aging and Disability, available on-line at: https://www.kdads.ks.gov/docs/default-source/general-provider-pages/training/mfei-training-documents/introduction.pdf?sfvrsn=c87305ee_6. (MFEI-LOC Introduction)

The MFEI-LOC is one assessment instrument, with skip patterns for the different programs.[54] It contains the following sections, not all of which being used for each assessment:

- Section I: Identification Information
- Section II: PASRR
- Section III: Functional Assessment
    - Cognition; Communication and Vision
    - Mood and Behavior; Psychosocial Wellbeing
    - Functional Status (IADLs, ADLs, Mobility)
    - Continence; Health Conditions
    - Environmental Assessment – Social Supports
- Section IV: Services Recommended[55]

The functional assessment section of the MFEI-LOC evaluates the following elements:

- Activities of Daily Living (ADLs) –include items such as bathing, dressing, toileting, transfers, and eating.
- Instrumental Activities of Daily Living (IADLs) –include items such as managing finances, shopping, transportation, managing medications, housework, and meal preparation.
- Cognition and Memory – the ability to plan, to adjust to new and familiar routines to make safe decisions, and short- and long-term memory.
- Challenging Behaviors – behaviors that may include impaired judgment; fluctuations in decision-making capacity; and impulsive, inappropriate, or disruptive behaviors.
- Fall Risk – items include history of falls, ability to move freely, and ability to be aware of one's surroundings.
- Continence – items include elimination, bowel, and bladder functioning.
- Informal Supports – unpaid caregiving supports who help meet an individual's LTSS need; this often include family members or friends.[56]

Note that waivers serving youth currently use a variety of different level of care criteria. For example, the Severe Emotional Disturbance Waiver (4-18 years old) uses two assessment tools, as well as the clinical judgment of a qualified mental health provider: the Child Behavior Checklist (CBCL) and the Child and Adolescent Functional Assessment Scale (CAFAS). The CBCL assesses children's emotional and behavioral problems using information concerning the child's behavior during the previous six months, obtained directly from the primary caregiver. The CAFAS assesses a youth's degree of impairment in day-to-day functioning due to emotional, behavioral, psychological, psychiatric, or substance use problems. The CAFAS is organized into eight scales for rating the child: school/work, home, community, behavior towards others, moods and emotions, substance abuse, self-harm, and thinking.[57]

[54] *Id.*
[55] *Id.*
[56] KS HCBS Waivers.
[57] *Id.*

Missouri

Missouri uses NF LOC for state plan personal care services, as well as four HCBS waivers, all of which serve Medicaid eligible adults: AIDS Waiver, Independent Living Waiver, Medically Fragile Adults, and Aged and Disabled.[58]

The state is currently involved in a NF LOC transformation initiative aimed at determining the most effective level of care that will:

> "Ensure access to care for those most in need of HCBS, allowing these individuals to remain in the least restrictive community setting as long as safely possible.
>
> Ensure limited budget resources are expended on those most in need of HCBS as an alternative to more costly facility placement.
>
> Ensure those individuals able to live in the community are not inappropriately placed in a more restrictive setting."[59]

The Missouri NF LOC was last updated in 1982, with points needed to qualify increasing twice, most recently in 2017. State staff, providers, and stakeholders have raised concerns about the validity and effectiveness of their current level of care tool. Additionally, the American Association of Retired Persons (AARP) Long-Term Services and Supports Scorecard indicated Missouri has the highest percentage of individuals with the lowest needs in nursing facilities.[60]

Missouri currently uses the interRAI Home Care Assessment System for its NF LOC evaluations and re-evaluations. It does not use these tools for institutional level of care assessments. As discussed above, the interRAI-HC was designed to identify issues related to functioning and quality of life for individuals who live in the community. The tool gathers information in the following domains: Identification Information; Intake and Initial History; Cognition; Communication and Vision; Mood and Behavior; Psychosocial Well-Being; Functional Status; Continence; Disease Diagnoses; Health Condition; Oral and Nutritional Status; Skin Condition; Medications; Treatment and Procedures; Responsibility; Social Supports; Environmental Assessment; Discharge Potential and Overall Status; Discharge; and Assessment Information.[61]

The new level of care tool will gather information from the following categories: higher level ADLs (mobility, eating, toileting), treatments, behavior, rehabilitation, cognition, IADLs (medication management, meal preparation), lower level ADLs (dressing/ grooming, bathing), and safety.[62] The new

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[58] *See* Missouri's Home and Community Based Services waivers, available on-line at: https://www.medicaid.gov/medicaid/section-1115-demo/demonstration-and-waiver-list/index.html. (MO HCBS Waivers).

[59] Report to MO DSDS at p2. *See also,* https://health.mo.gov/seniors/hcbs/loc-transformation.php.

[60] Report to MO DSDS at p2.

[61] MO HCBS Waivers.

[62] Level of Care Transformation (Missouri Division of Senior and Disability Services Presentation for the Missouri Alliance for Home Care Conference) p 8, available on-line at: https://health.mo.gov/seniors/hcbs/pdf/mahc-loc-presentation.pdf.

scoring system uses category-specific questions with points that are earned for each question. Additionally, Missouri will use "common sense trigger questions" to identify those who would automatically qualify for eligibility, such as those with late stage dementia.[63]

Idaho

Idaho currently offers one Medicaid HCBS waiver that uses NF LOC: the Aged and Disabled waiver.[64]

Idaho uses a tool it developed called the Uniform Assessment Instrument (UAI) for NF LOC evaluations and re-evaluations. It uses the same assessment tools for Medicaid HCBS Waiver services and institutional placements. The purpose of the UAI is to gather information for determining the individual's care needs, service eligibility, and service planning. The UAI measures deficits in ADLs, IADLs, Behavioral and Cognitive Functioning.[65]

The Aged and Disabled waiver describes the UAI as:

> "a multidimensional questionnaire which assesses a participant's functioning level, social skills, and physical and cognitive abilities. It provides a comprehensive assessment of a participant's actual functioning level including those elements that are necessary for developing an individualized service plan. The UAI was designed to provide a standardized way of conducting a participant interview to ensure that all participants have an objective assessment of their needs."[66]

An adult must score a minimum of 12 points on the UAI to meet NF LOC.[67] The formula works as follows:

- There are three Critical Indicators, valued at 12 points each.
    - Total assistance with preparing or eating meals.
    - Total or extensive assistance in toileting.
    - Total or extensive assistance with medications which require decision making prior to taking, or assessment of efficacy after taking.[68]

- High Indicators - 6 Points Each.
    - Extensive assistance with preparing or eating meals.
    - Total or extensive assistance with routine medications.
    - Total, extensive, or moderate assistance with transferring.
    - Total or extensive assistance with mobility
    - Total or extensive assistance with personal hygiene.

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[63] Report to MO DSDS at p33.

[64] *See* Idaho's Home and Community Based Services waivers, available on-line at: https://www.medicaid.gov/medicaid/section-1115-demo/demonstration-and-waiver-list/index.html. (ID HCBS Waivers).

[65] *Id.*

[66] *Id.*

[67] IDAPA 16.03.10.322.04.

[68] IDAPA 16.03.10.322.05.

    - Total assistance with supervision from Section II of the Uniform Assessment Instrument (UAI).[69]

- Medium Indicator - 3 Points Each.
    - Moderate assistance with personal hygiene.
    - Moderate assistance with preparing or eating meals.
    - Moderate assistance with mobility.
    - Moderate assistance with medications.
    - Moderate assistance with toileting.
    - Total, extensive, or moderate assistance with dressing.
    - Total, extensive, or moderate assistance with bathing.
    - Extensive or moderate assistance with supervision from Section II No. 18 of the UAI.[70]

An individual can qualify for NF LOC by scoring 12 points in a variety of ways: meeting a single critical indicator, having two or more high indicators, having one high and two medium indicators, or having four or more medium indicators.[71]

North Dakota

North Dakota uses NF LOC for four of its Medicaid HCBS waivers: Children's Hospice, Medicaid Waiver for Medically Complex Children, Medicaid Waiver HCBS, and Technology Dependent Medicaid Waiver.

A person will meet NF LOC if one of the following criteria is met:

- The person's nursing facility stay is, or is anticipated to be, temporary for receipt of Medicare Part A benefits.[72]
- The person is in a comatose state.[73]
- The person requires the use of a ventilator for at least six hours per day, seven days a week.[74]
- The person has respiratory problems that require regular treatment, observation, or monitoring that may only be provided by or under the direction of a registered or licensed practical nurse, and the person is incapable of self-care.[75]
- The person requires constant help sixty percent or more of the time with at least two of the activities of daily living of toileting, eating, transferring, and locomotion. Constant help means that the person requires a caregiver's continual presence or help without which the activity would not be completed.[76]

[69] IDAPA 16.03.10.322.06.
[70] IDAPA 16.03.10.322.07.
[71] IDAPA 16.03.10.322.08.
[72] N.D.A.C. 75-02-02-09.2.a.
[73] N.D.A.C. 75-02-02-09.2.b.
[74] N.D.A.C. 75-02-02-09.2.c.
[75] N.D.A.C. 75-02-02-09.2.d.
[76] N.D.A.C. 75-02-02-09.2.e.

- The person requires aspiration for maintenance of a clear airway.[77]
- The person has dementia for at least six months, and as a direct result of that dementia the person's condition has deteriorated to the point when a structured, professionally staffed environment is needed to monitor, evaluate, and accommodate their changing needs.[78]

A person may also meet NF LOC if two or more of the following criteria are met:

- The person requires administration of prescribed injectable medication; intravenous medication or solutions on a daily basis; or routine oral medications, eye drops, or ointments on a daily basis.[79]
- The person has one or more unstable medical conditions requiring specific and individual services on a regular and continuing basis that can only be provided by or under the direction of a registered or licensed practical nurse.[80]
- The person can benefit from restorative nursing or therapy treatments, such as gait training or bowel and bladder training, which are provided at least five days per week.[81]
- The person requires administration of feedings by nasogastric tube, gastrostomy, jejunostomy, or parenteral route.[82]
- The person requires care of decubitus ulcers, stasis ulcers, or other widespread skin disorders.[83]
- The person requires constant help sixty percent or more of the time with any one of the activities of daily living of toileting, eating, transferring, or locomotion.[84]

If a person who does not meet NF LOC, as described above, applies to or resides in a nursing facility for nongeriatric individuals with physical disabilities, and is determined to have restorative potential, he or she will meet NF LOC based upon medical necessity.[85]

A person who applies for care in a nursing facility may also meet level of care if they have an acquired brain injury (including anoxia, cerebral vascular accident, brain tumor, infection, or traumatic brain injury), and as a result of the brain injury, requires direct supervision at least eight hours a day, seven days a week.[86]

North Dakota uses a homegrown tool called the Level of Care Determination form to document if the person (adult or child) meets NF LOC. The Level of Care Determination form assesses the client's health

[77] N.D.A.C. 75-02-02-09.2.f.
[78] N.D.A.C. 75-02-02-09.2.g.
[79] N.D.A.C. 75-02-02-09.3.a.
[80] N.D.A.C. 75-02-02-09.3.b.
[81] N.D.A.C. 75-02-02-09.3.c.
[82] N.D.A.C. 75-02-02-09.3.d.
[83] N.D.A.C. 75-02-02-09.3.e.
[84] N.D.A.C. 75-02-02-09.3.f.
[85] N.D.A.C. 75-02-02-09.4.
[86] N.D.A.C. 75-02-02-09.5.

care needs, cognitive abilities, functional status, and restorative potential.[87] North Dakota uses the same assessment tools for Medicaid HCBS Waiver services and institutional placements.

South Dakota

South Dakota has two waivers that use NF LOC, both of which serve adults only: the Home and Community-Based Options and Person-Centered Excellence (HOPE) Waiver and the Assistive Daily Living Services Waiver.

South Dakota will determine that a person meets NF LOC if he or she requires any of the following:

> "(1) Continuing direct care services which have been ordered by a physician and can only be provided by or under the supervision of a professional nurse. These services include daily management, direct observation, monitoring, or performance of complex nursing procedures. For purposes of this rule, continuing care is repeated application of the procedures or services at least once every 24 hours, frequent monitoring, and documentation of the individual's condition and response to the procedures or services;
> (2) The assistance of another person for the performance of any activity of daily living according to an assessment of the individual's needs; or
> (3) In need of skilled mental health services or skilled therapeutic services, including physical therapy, occupational therapy, or speech/language therapy in any combination that is provided at least once a week."[88]

In South Dakota, the NF LOC assessment for the HOPE waiver begins with a Long Terms Services and Supports Specialist completing the InterRAI Community Health Assessment (CHA).[89] The interRAI CHA assessment is a Minimum Data Set screening tool which is one in a suite of interRAI assessment tools.[90] The CHA is an in-home assessment that is completed initially, and annually henceforth prior to the annual level of care reevaluation.[91] The completed CHA is shared with a Medical Review Team comprised of a Division of Long Term Services and Supports (LTSS) Nurse Consultant, a Registered Nurse licensed to practice in the State of South Dakota, and an LTSS Specialist.[92] The Medical Review Team completes the level of care assessment.[93] It should be noted that South Dakota utilizes the Minimum Data Set Resident Assessment Instrument when determining institutional Level of Care under the State Plan.[94]

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[87] North Dakota Level of Care Form Instructions (ASCEND February 2017), available on-line at: https://www.ascendami.com/pasrr/NorthDakota/Educational/Edu2_22_2017_3_41_54_PM.pdf.
See also North Dakota's Home and Community Based Services waivers, available on-line at: https://www.medicaid.gov/medicaid/section-1115-demo/demonstration-and-waiver-list/index.html. (ND HCBS Waivers).
[88] S.D. Admin. R. 67:45:01:03.
[89] South Dakota's Home and Community Based Services waivers, available on-line at: https://www.medicaid.gov/medicaid/section-1115-demo/demonstration-and-waiver-list/index.html. (SD HCBS Waivers).
[90] *Id.*
[91] *Id.*
[92] *Id.*
[93] S.D. Admin. R. 67:45:01:02.
[94] SD HCBS Waivers.

For the Assistive Daily Living Services waiver, NF LOC is determined by a Utilization Review Team using the Assistive Daily Living Services Assessment.[95] The tool assesses cognitive skills for daily decision making and the individual's ability to perform activities of daily living, such as eating, bathing, grooming, dressing, transferring, and bladder/bowel care. It also assesses instrumental activities of daily living (IADLs), including preparing meals, laundry, managing money, telephone use, housework, and shopping. The assessment includes a medication list, information on health conditions, continence, pain, and nutritional issues, as well as personal goals the individual would like to achieve. Other information considered may include a social history and a list of natural supports available to the individual. Services assessed include waiver services the individual needs or is utilizing, and information on medical services and other supportive services that the individual needs or is currently utilizing.[96]

Impact of Process

Finally, it is worth considering the impact of process and procedure on level of care determinations. There may be some natural variation in the application of the level of care tool, resulting in possibly subjective or inconsistent results. Applicants may also be coached to help them meet level of care.[97] These issues can occur regardless of which tool is used. When a state switches level of care instruments and does the accompanying training of staff, some of these issues may (at least temporarily) be abated. This could result in individuals who would have been found to meet level of care previously to not meet level of care – not because of a change in the point system or algorithm, but because of a correction in process.

[95] *Id.*
[96] *Id.*
[97] See, e.g., Report to MO DSDS at p 40.

Assessment Tools

Adult Nursing Facility Level of Care Assessment Tool

The Adult NF LOC Assessment tool being utilized does collect the data points necessary to make a NF LOC determination based on current criteria. Nebraska's tool needs to be brought into closer alignment with best practices and provide more substantive data as the current instrument being applied to adults to determine LOC for nursing facilities is lacking in both standardization and completeness. **Optumas** has two key conclusions based on our experience and research into other states' NF LOC Assessment tools: (1) the domains covered are inadequate, and (2) the specificity in response measurement is lacking. Based on this review, there are three options for DHHS to consider relative to updating the Adult NF LOC Assessment Tool:

Option 1: Adding a Section(s) to the Existing Tool

Currently, Nebraska's Adult NF LOC Assessment captures data on Activities of Daily Living (ADLs), Risk Factors, Medical Treatment, and Cognition. These domains are of critical importance in determining NF LOC. Typically, states perform both an in-person NF LOC Assessment and a Needs Assessment for individuals seeking services. Thus far, we have been unable to identify any additional sources of data on an individuals' needs for the population of interest in Nebraska. In our experience, research of other states' tools, and best practices noted in our literature review, comprehensive NF LOC Assessment tools also capture data on Instrumental Activities of Daily Living (IADLs). Items measuring IADLs are entirely absent in the NE DHHS NF LOC Assessment tool. The ability of an individual to perform IADLs independently is often critical to determining the likelihood of their success in community living and the level of additional support and care planning may need to avoid institutional care. In addition to lacking items on IADLs, there is also room for improvement in the level of detail of demographic information and medical data collected. The State may also prefer to add items related to behavioral concerns; a common category of data collected by other states' tools. Data in each of these categories would enable the State to better assess NF LOC and individuals' needs for service planning purposes.

Option 2: Altering Measurement on the Existing Tool

As noted in Option 1, given that the NF LOC tool may represent the totality of data on some individuals entering the system, the current NF LOC Assessment Tool needs to be updated to include a more specific response measurement. The current tool relies on yes/no check boxes to capture individuals' responses/needs. A more appropriate measurement system would enable the State to better serve the population. A Likert scale would be most appropriate, and modeling response variables to those used in and instrument like the Function Assessment Standardized Items (FASI) survey would be helpful. The FASI instrument relies on a 6-point response scale and two-tier lookback: a 3-day lookback and a measure of the individual's most dependent day of the past month. These data points provide valuable information on stability. **Optumas** considers altering item measurement to be a critically necessary change to the existing tool.

Option 3: Replacing the Existing Assessment Tool

Modifying the existing Adult NF LOC Assessment tool would most likely be the least expensive approach to updating the process of eligibility determination. However, other options exist. The least expensive approach to implementing a new, pre-existing, validated tool would be utilizing an open source assessment. Several assessment tools are available for purchase as well, one frequently used tool is the interRAI Home Care Assessment System (HC). No matter the selected tool, states are required to utilize the tool's structure and follow the tool's processes. The interRAI-HC has been purposefully designed as a reliable and person-centered assessment system. The interRAI-HC tool provides data that inform and guide comprehensive care and service planning in community-based settings. The use of an existing tool would provide the State with standardized data generated from a validated and reliable instrument.

RECOMMENDED CHANGE: Option 3: Replacing the Existing Assessment Tool

Tools for Consideration

As DHHS works to assess and improve Nebraska's NF LOC processes and criteria, it is valuable to evaluate commonly used tools and criteria as well as how current assessment tools and criteria are used by peer states, particularly those states that have recently refined their NF LOC processes. As described earlier, most states use a homegrown/developed tool for Adult NF LOC. However, some states use a standalone pre-existing tool either on its own or in conjunction with their state specific tool/form. Below is a summary of the tools we considered as options for Nebraska to use in Adult NF LOC determinations as well as the operational impact of their implementation.

Option 1: InterRAI Home Care (HC) Assessment System

The interRAI Home Care Assessment System (HC) was designed to be a user-friendly, reliable, person-centered assessment system that informs and guides comprehensive care and service planning in community-based settings. The individual's functioning and quality of life are the main areas of focus for the assessment. These are evaluated by assessing needs, strengths, and preferences. The developers of the tool state that when used over time, it provides the basis for an outcome-based assessment of the individual's response to care or services. At the time of this report, 24 U.S. states are using interRAI instruments.

Development of the Home Care Instrument dates back to interRAI's original involvement with the development of the Minimum Data Sets — Resident Assessment Instrument (MDS-RAI) and the application of the Resource Utilization Group's (RUGS) case-mix system in long-term residential care. Introduction of the MDS-RAI into nursing home care was associated with measurable improvements in the standard of care, particularly when quality indicators derived from the instrument were introduced.[98] In 1994 the community care version of the MDS-RAU, the Resident Assessment Instrument for Home Care (RAI-HC), was introduced as a model for comprehensive assessment in a community setting. In 2001,

[98] Using interRAI Assessment Systems to Measure and Maintain Quality of Long-Term Care, p 97, available on-line at: https://www.interrai.org/instruments/https://www.interrai.org/assets/files/par-i-chapter-3-old-age.pdf

interRAI began a restructuring initiative to ensure all instruments contained common items and definitions. The latest update to the instrument came in 2007, when the tool was revised to be compatible with other assessment systems developed by interRAI.[99]

The target population of the interRAI-HC system is elderly, frail, or disabled individuals who are seeking health care services. This aligns with the proposed use of the system in Nebraska.

Application of the interRAI system yields not only the results of the items comprising the instrument but an accompanying system designed to identify issues related to function and quality of life. These include scales for ADLs, cognition, communication, pain, depression, and medical instability as well as Clinical Assessment Protocols (CAPs) that contain strategies to address problem conditions as triggered by one or more HC item responses.

The interRAI-HC Assessment System is designed for use by clinical professionals (e.g. nurses, social workers, physicians, therapists) but can, according to developers, be applied accurately by appropriately trained individuals without a clinical background. Communication with the individual and primary caregiver/family member as well as observation of the individuals in the home environment is required.

The operational impact of incorporating the interRAI-HC System in Nebraska would require either 1) that clinical professionals be made available to administer the assessment or 2) a training period take place for non-clinical staff. There are additional training resources provided directly, at a cost, from interRAI. An electronic system would also be needed to record and store interRAI-HC System outputs and associate them to the members in Nebraska's care.

Option 2: Functional Assessment Standardized Items (FASI)

The Functional Assessment Standardized Items (FASI) are part of the CMS Testing Experiencing and Functional Tools (TEFT) project. The TEFT project built on national efforts to create exchangeable data across Medicare and Medicaid programs and developed the FASI from three sources. Self-care items and a majority of the mobility items included came from existing CMS assessment tools and have been standardized across the Medicare program assessment tools, including the Inpatient Rehabilitation Facility Patient Assessment Instrument (IRF-PAI), MDS 3.0, Long-Term Care Hospital Continuity Assessment Record and Evaluation (LTCH-CARE), and Outcome and Assessment Information Set (OASIS).[100] The second set of items was adapted from existing state assessment tools to reflect the needs of individuals living in the community and receiving community-based long-term services and supports (CB-LTSS). Instrumental activities of daily living (IADLs), living arrangements, and caregiver availability were adapted from items in the home health-based assessment and the OASIS. Assistive devices were adapted from state CBLTSS assessment tools. The final group of items contained additional mobility items developed specifically for inclusion in the FASI set and were designed to reflect a broader range of functional community mobility tasks for which an individual receiving CB-LTSS may need supports or services. The TEFT project conducted a FASI field test across six states between March 2017 and

[99] *Id.*

[100] FASI 2017 Field Test Final Report, p 8, available on-line at: https://www.medicaid.gov/sites/default/files/2019-12/fasi-2017-field-test-report.pdf

September 2017 in order to test the reliability, validity, and usefulness of items to capture an individual's need for assistance with daily activities and to serve as a basis for quality performance measures.[101]

The target population of the FASI items is individuals who may need nursing facility or other institutional level of care. This aligns with the proposed used of the system in Nebraska.

The FASI output provides standardized items for monitoring and improving CB-LTSS quality. These standardized items support reliable and valid measures of CB-LTSS recipients' functioning.

The operational impacts of implementing the FASI in Nebraska could be expected to match the experience of the of FASI field test. The field test required a training approach to effectively train both experienced and novice assessors from six states within a short time span. The consistency of training was important to support the interrater reliability testing of the FASI. The FASI team developed a unique self-paced, competency-based, online assessor training for the field test. Nebraska would need to develop a similar process.

Option 3: Homegrown Tool

A homegrown Nebraska tool could be developed to address the intricacies of Nebraska's NF LOC criteria determination. The creation of such a tool would require development and validation processes to be applied effectively to the existing NF LOC criteria. Many existing state-specific tools are based in part on publicly available assessment tools or sets such as the Minimum Data Set (MDS), a federally mandated process for clinical assessment of all residents in Medicare or Medicaid certified nursing homes. These tools can then be tailored to the specific needs and existing infrastructure of the specific state. The development of such a tool can help simplify the process of NF LOC determination for all involved parties.

Development of a homegrown, state-specific tool with validity comparable to the interRAI-HC System or FASI would require substantial investments in time and resources by DHHS. The identification of validated assessment items and further proposed policy analysis would need to take place in order to determine whether or not the efficacy of any proposed tool would meet the minimum requirements set out by Nebraska and dictated by national best practices. Tailoring the tool to the population targeted would require several phases of strategy discussions and clinical reviews of the population in question. These would need to take place both to inform a state-specific tool and to provide a basis upon which to later examine potential population impacts associated with implementation. Implementation of such a tool would require substantial stakeholder engagement to both inform the rollout process and identify any potential drawbacks to the tool prior to its use. Lastly, evaluation of a concurrent assessment period (i.e. using both the old and new tools simultaneously) would be needed to understand the impacts of the change. The undertaking of developing a new homegrown tool would be innovative but would be subject to concerns surrounding its validity.

RECOMMENDED CHANGE: Option 1: interRAI Home Care (HC) Assessment System

[101] *Id.*

Child Nursing Facility Level of Care Assessment Tool

Like the Adult NF LOC Assessment tool, the Child's tool would benefit from being updated or replaced. Similar to the Adult NF LOC Assessment tool recommendations, addressing these suggested changes would bring Nebraska's tool into closer alignment with best practices and provide more substantive data on the population of interest. However, it is important to note that the Child NF LOC Assessment tool being utilized does collect the data points necessary to make a NF LOC determination based on current criteria. While the Child's NF LOC Assessment tool underwent an update in 2018, it may be necessary to replace the tool entirely. At a minimum, further changes to the Child's NF LOC Assessment should include modifications to the measurement of ADLs. These modifications would more closely align the Child's NF LOC Assessment tool with instruments being used by other states and would provide more depth to the data available to NE DHHS. Based on this review, there are two options for DHHS to consider relative to the Child NF LOC Assessment Tool:

Option 1: Altering Measurement on the Existing Tool

The current NF LOC criteria are appropriate for determining institutional NF care needs for children. However, based on a partial review of population data available from DHHS, it appears that several children currently served on the Aged & Disabled waiver may be more appropriately served on an existing Developmental Disability waiver with an institutional Intermediate Care Facility (ICF) LOC requirement.

To assess eligibility for NF LOC in children between birth and 48 months, data on medical conditions and/or treatment are required. As such, **Optumas** recommends that the medical condition and treatment information captured by the tool align with appropriate criteria.

Option 2: Replacing the Existing Assessment Tool

The Child and Adolescent Needs and Strengths (CANS) Assessment is widely used across the country. The CANS Assessment has several modules, not all of which would be appropriate or necessary for NF LOC determination. The tool was designed to support care planning and NF LOC decision-making, as well as other purposes. Other tools that are available for purchase would deliverable valid, reliable, and standardized data to the State. The most appropriate of these options include CANS and the interRAI Pediatric Home Care (PEDS-HC) tool.

RECOMMENDED CHANGE: Option 2: Replacing the Existing Assessment Tool

Tools for Consideration

As the Department of Health and Human Services works to assess and improve Nebraska's NF LOC processes and criteria, it is valuable to evaluate commonly used tools and criteria as well as how current assessment tools and criteria are used by peer states, particularly those states that have recently refined their Child NF LOC processes. As noted earlier in this report, most states use a homegrown/developed tool for Child NF LOC. However, some states will use a standalone pre-existing tool either on its own or in

conjunction with their state- specific tool/form. Below is a summary of the tools we considered as options for Nebraska to use in Child NF LOC determinations.

Option 1: InterRAI Pediatric Home Care (PEDS-HC)

The interRAI Pediatric Home Care Assessment (PEDS-HC) is a standardized assessment tool developed for use in programs serving children with special health care challenges. Like the adult version, it is designed to be a user-friendly, reliable, person-centered assessment system that informs and guides comprehensive care and service planning in community-based settings. The child's needs, strengths, and preferences are evaluated either through direct communication with the child or with their parent/guardian. At the time of this report, 3 U.S. states are using the interRAI PEDS-HC instrument in some way.

Development of the PEDS-HC stems back to the latest update of the Adult interRAI-HC System in 2007. A group of researchers at Texas A&M University worked with service agencies in Texas to develop the PEDS-HC as a child-specific tool that fits within the construct of the existing interRAI-HC System in regard to personal care services. That effort later broadened into the development of a comprehensive assessment system that incorporates the child's functional, psychosocial, and developmental status.

The PEDS-HC was designed to be used to assess the home care needs of children from age 4 through 20. This would require Nebraska to use an alternative NF LOC determination process for children under age 4. Application of the PEDS-HC will result in a series of items, definitions, and codes output for each child assessed. These should then be used as a guide in determining home care needs.

The typical assessment of the PEDS-HC based on its use in the U.S. is a licensed nurse performing the assessment in the child's home setting. The child, parent, and primary caregiver serve as the primary sources of information and items are completed under the protocols established by the overseeing agency and organization. There is less precedent for the implementation the PEDS-HC; the child-oriented tool is not as widespread in its use as is the HC System. Should Nebraska choose to implement the PEDS-HC, the operational impacts will mirror those of the Adult interRAI-HC System.

Option 2: Child and Adolescent Needs and Strengths (CANS) Comprehensive Assessment

The Child and Adolescent Needs and Strengths (CANS) Comprehensive Assessment is a multi-purpose open domain tool for use in service delivery systems that address the mental health of children, adolescents, and their families. The CANS was developed from a communication perspective to facilitate the linkage between the assessment process and the design of individualized service plans including the application of evidence-based practices.[102] The CANS Assessment contains six key components: 1) items selected based on relevance to planning, 2) there exist action levels for all items, 3) culture and development are considered, 4) agnosticism towards etiology, 5) child-centric, and 6) specific ratings

[102] Standard Child and Adolescent Needs and Strengths Comprehensive Manual 2.0, p 4, Available on-line at: https://praedfoundation.org/general-manuals-cans/

windows (e.g. 30 days) can be overridden. Different versions of the CANS are used in nearly every state, though not always for NF LOC determinations.[103]

The CANS is an open domain tool that is free to use. The copyright is held by the Praed Foundation to maintain its intellectual integrity. A very large number of individuals including professionals, parents, and youth have participated in the creation of the various CANS tools. Training and certification are required for the use of the CANS.

Option 3: Homegrown Tool

Like the alternative provided for the Adult NF LOC tool, Nebraska could opt to develop a child-specific NF LOC tool. It is important to note that the tool must differ from the adult one and maintain developmentally appropriate standards for all responses. For example, the level of care instrument used by New Mexico to evaluate and reevaluate Child NF LOC is like the New Mexico Adult NF LOC tool. The child assessment consists of an evaluation of seven ADLs and develops a definition for each level of capacity. The definitions developed account for developmental milestones across seven age bands between ages 3 to 20. This assessment tool is meant to be utilized with the same criteria as the Adult NF LOC Tool. The Child NF LOC form assesses the client's capacity in bathing, grooming, dressing, eating, toileting, mobility, and transfers.

The operational impacts of such a tool would vary greatly based on its construction. A substantial amount of time and economic resources would need to be invested in its development. Areas of cost to the state, staffing requirements, training requirements, and system requirements are among those that would need to be addressed.

RECOMMENDED CHANGE: Option 1: InterRAI Pediatric Home Care (PEDS-HC)

[103] *Id.*

Adult Nursing Facility Level of Care Criteria

Optumas' recommendations on the tool and criteria for Adult NF LOC are the introduction of the interRAI Home Care Assessment System (interRAI-HC) and slight modifications to the existing criteria. Currently, Adult NF LOC Criteria are described as follows in regulation:

"An adult is determined to meet NF LOC if they meet one of the following conditions:

- Limitations in three or more Activities of Daily Living (ADL) AND Medical treatment or observation.
- Limitations in three or more ADLs AND one or more Risk factors.
- Limitations in three or more ADLs AND one or more Cognition factors.
- Limitations in one or more ADLs AND one or more Cognition AND one or more Risk factors."

Optumas recommends that the above structure remain largely intact. The changes to criteria would come in the form of more closely aligning the criteria description with the language used in the interRAI Home Care (HC) tool.

Final options for changing the NF LOC criteria appear below as a list of decision points. **Optumas** recommended options will appear as **RECOMMENDED CHANGE**.

Adult Activities of Daily Living Descriptions

Consistent with best practices, **Optumas** recommends that DHHS consider modifying the Adult NF LOC ADL criteria descriptions to align the language more closely with that used in the interRAI-HC tool. Aligning the language will more clearly delineate the crosswalk between the ADL criteria used in level of care determinations and the corresponding section in the interRAI-HC tool used to determine whether the criteria is met.

Options for Adult NF LOC ADL alignment

- Option 1: No change to current criteria, ***or***
- Option 2: Modify the Adult NF LOC criteria descriptions to align the language more closely with that used in the interRAI-HC tool. **RECOMMENDED CHANGE**

'Table 2: ' shows how an updated description of how the criteria proposed would better align with the description of the ADL components of the interRAI-HC tool. **Optumas** recommends the DHHS legal team be consulted to identify the appropriate language to be reflected in regulation due to the proposed criteria changes. Note that these proposed modifications may or may not require updates to promulgated regulation based on Nebraska policy and best practices.

Table 2: Proposed Updated Criteria Language for Alignment of Adult Nursing Facility Level of Care Criteria and Tool Descriptions

Adult NF LOC ADL Alignment			
ADL	**NE Regulations**	**Proposed Updated Criteria***	**interRAI-HC Item(s)**
Bathing	471 NAC 12-003.02(1)(a) - The ability to get to the bathing area and cleanse all parts of the body and the hair to maintain proper hygiene and prevent body odor, including tub, shower, and/or sponge bath.	Individual scores at or higher than “2: Supervision” in how takes a full-body bath or shower. Includes how person transfers in and out of tub or shower and how each part of body is bathed: arms, upper and lower legs, chest, abdomen and perineal area. EXCLUDE WASHING OF BACK AND HAIR.	G(2)a - Bathing - How takes a full-body bath or shower. Includes how person transfers in and out of tub or shower and how each part of body is bathed: arms, upper and lower legs, chest, abdomen and perineal area. EXCLUDE WASHING OF BACK AND HAIR.
Dressing/Grooming	471 NAC 12-003.02(1)(c) - The ability to put on and remove clothing as needed from both upper and lower body; the ability to do routine daily personal hygiene (combing hair, brushing teeth, caring for dentures, washing face and hands, and shaving).	Individual scores at or higher than “2: Supervision” in one of the three categories: 1) Personal hygiene - How manages personal hygiene, including combing hair, brushing teeth, shaving, applying make-up, washing and drying face and hands. EXCLUDE BATHS AND SHOWERS. 2) Dressing upper body - How dresses and undresses (street clothes, underwear) above the waist, including prostheses, orthotics, fasteners, pullovers, etc. 3) Dressing lower body - How dresses and undresses (street clothes, underwear) from the waist down, including prostheses, orthotics, belts, pants, skirt, shoes, fasteners, etc.	G(2)b - Personal hygiene - How manages personal hygiene, including combing hair, brushing teeth, shaving, applying make-up, washing and drying face and hands. EXCLUDE BATHS AND SHOWERS. G(2)c - Dressing upper body - How dresses and undresses (street clothes, underwear) above the waist, including prostheses, orthotics, fasteners, pullovers, etc. G(2)d - Dressing lower body - How dresses and undresses (street clothes, underwear) from the waist down, including prostheses, orthotics, belts, pants, skirt, shoes, fasteners, etc.
Eating	471 NAC 12-003.02(1)(d) - The ability to take nourishment. This	Individual scores at or higher than “2: Supervision” in how eats and drinks	G(2)j - Eating - How eats and drinks (regardless of skill). Includes intake of

Adult NF LOC ADL Alignment			
ADL	**NE Regulations**	**Proposed Updated Criteria***	**interRAI-HC Item(s)**
	may include the act of getting food from the plate to the mouth, and does not include meal preparation.	(regardless of skill). Includes intake of nourishment by other means (such as tube feeding or total parenteral nutrition).	nourishment by other means (such as tube feeding or total parenteral nutrition).
Mobility	471 NAC 12-003.02(1)(e) - The ability to move from place to place indoors or outside.	Individual scores at or higher than “2: Supervision” in one of the two categories: 1) Walking - How walks between locations on the same floor indoors. 2) Locomotion - How moves between locations on the same floor (walking or wheeling). If in wheelchair, self-sufficiency once in the chair.	G(2)e - Walking - How walks between locations on the same floor indoors. G(2)f - Locomotion - How moves between locations on the same floor (walking or wheeling). If in wheelchair, self-sufficiency once in the chair.
Transferring	471 NAC 12-003.02(1)(g) - The ability to move from one place to another, including bed to chair and back, and into and out of a vehicle. (It does not include toilet transfer.)	Individual meets 1 or more of the following criteria: - Individual scores at or above “4: Extensive Assistance” on item G(2)a - Individual scores at or above “4: Extensive Assistance” on item G(2)g - Individual score at or above “1: Present but not exhibited in last 3 days” on item J(3)a Individual score at or above “1: Present but not exhibited in last 3 days” on item J(3)b	G(2)a - Bathing - How takes a full-body bath or shower. Includes how person transfers in and out of tub or shower and how each part of body is bathed: arms, upper and lower legs, chest, abdomen and perineal area. EXCLUDE WASHING OF BACK AND HAIR. G(2)g - Transfer Toilet - How moves on and off toilet or commode J(3)a - Balance - Difficult or unable to move self to standing position unassisted J(3)b - Balance - Difficult or unable to turn self around and face the opposite direction when standing

Adult NF LOC ADL Alignment			
ADL	**NE Regulations**	**Proposed Updated Criteria***	**interRAI-HC Item(s)**
Continence	471 NAC 12-003.02(1)(b) - The control of one's body to empty the bladder and/or bowel on time; the ability to change incontinence pads/briefs, cleansing, and disposing of soiled articles; ability to manage ostomy equipment; ability to self-catheterize.	Individual scores at or higher than 2 in one of the following interRAI-HC Section H categories. 1) Bladder Continence 2) Bowel Continence	H1 - Bladder Continence - Scaled Response H3 - Bowel Continence - Scaled Response
Toileting	471 NAC 12-003.02(1)(f) - The ability to get to and from the toilet, commode, bedpan, or urinal, including transfer to and from the toilet, management of clothing, and cleansing.	Individual scores at or higher than "2: Supervision" on one or both items: 1) Transfer toilet - How moves on and off the toilet or commode. 2) Toilet use - How uses the toilet room (or commode, bedpan, urinal), cleanses self after toilet use or incontinent episode(s), changes bed pad, manages ostomy or catheter, adjusts clothes. EXCLUDE TRANSFER ON AND OFF TOILET	G(2)g - Transfer toilet - How moves on and off the toilet or commode. G(2)h - Toilet use - How uses the toilet room (or commode, bedpan, urinal), cleanses self after toilet use or incontinent episode(s), changes bed pad, manages ostomy or catheter, adjusts clothes. EXCLUDE TRANSFER ON AND OFF TOILET

Adult NF LOC ADL Alignment — table title above (orange banner).

**DHHS legal staff consulted on regulatory language for all proposed ADL criteria*

Additional Adult Activities of Daily Living Categories

In addition, DHHS asked **Optumas** if there were other ADL categories that were available in the tools under consideration that the State may want to consider utilizing for assessments of the adult population. There are two additional ADLs from the interRAI-HC tool that **Optumas** identified: "Bed Mobility" and "Positioning" as potential additional ADL categories.

Optumas does not recommend the addition of these ADLs to Adult NF LOC determinations currently. It is **Optumas'** position that "Bed Mobility" and "Positioning" do not serve as effectively as the established ADL categories in determining NF LOC. The existing ADLs capture more typical categories of potential need than the two additional ADLs included in the interRAI-HC tool. It should also be noted that the inclusion of these additional ADLs would increase the number of ADLs by which an individual could meet level of care and alter the current ratio of ADLs to medical treatments/observations and risk factors. Any such addition would carry the potential for unintended population impacts. However, the State may want to revisit these additional ADLs in the future to determine if their inclusion would be consistent with the State's policy goals at that time. For example, if the State wanted to increase the emphasis on ADLs, it could include the additional ADLs from the interRAI-HC tool in the Adult NF LOC determination process, thereby allowing additional opportunities to identify dependencies in ADLs.

Options for Adult NF LOC for Additional ADLs

- Option 1: No change to criteria, **RECOMMENDED CHANGE or**
- Option 2: Include additional ADLs in Adult NF LOC assessments currently.

Medical Treatments or Observation for Adult Nursing Facility Level of Care

DHHS should consider modifying criteria referring to Medical Treatments or Observations to better align with the interRAI-HC tool. As shown in Table 3, Nebraska regulation 471 NAC 12-003.02(3) specifies a *non-inclusive* list of 23 ongoing medical/nursing services that qualify an individual for Adult NF LOC.

The interRAI-HC tool captures data on medical treatments and observations (See Table 4) differently than current State processes do. A non-inclusive list, it utilizes examples to allow for clinical judgment under **Optumas'** assumption that developing an inclusive list of medical treatments or observations is not practical. Table 4 shows the interRAI-HC medical treatment list. A clinician(s) could utilize an item not on this list to qualify an individual if, in the clinician(s)'s professional judgment, the treatment/program they documented/observed was consistent with the level of need of the treatments/programs that are recommended in the list as examples. Additional detail and/or guidance on Medical Treatments and Programs considered to meet Adult NF LOC could be included in policy manuals and/or NF LOC determination instructions.

Options for Adult NF LOC Medical Treatment or Observation Criteria

- Option 1: Continue the use of existing criteria with a non-inclusive Medical Treatment or Observation list (Table 3), ***or***
- Option 2: Change to the interRAI-HC Medical Treatments and Programs list (Table 4) to better align with recommended tool, maintaining the current non-inclusive approach with a list consistent with the interRAI-HC tool. **RECOMMENDED CHANGE**

'Table 3: ' shows the non-inclusive list of Medical Treatments or Observations currently in regulation, while 'Table 4: ' lists the non-inclusive set of treatments that more closely reflect those appearing in the interRAI-HC tool.

Table 3: Nebraska Regulations on Adult Nursing Facility Level of Care Medical Treatment or Observation

Current NE Adult NF LOC Medical Treatment or Observation Regulations
Ongoing Medical/Nursing Supervision Services: Non-Inclusive
1) Application of aseptic (sterile) dressing
2) Routine Catheter Care
3) Respiratory Therapy, (Nebulizer treatments are included) Inhalers or PRN (as needed) Oxygen are NOT included
4) Supervision for adequate nutrition and hydration due to clinical evidence of malnourishment or dehydration or due to a recent history of weight loss or inadequate hydration which, if unsupervised, would be expected to result in malnourishment or dehydration
5) Therapeutic exercise and positioning
6) Routine colostomy or ileostomy care or management of neurogenic bowel and bladder
7) Use of physical restraints and/or chemical restraints (not allowed for use in AD Waiver services)
8) Routine Skin Care: to prevent pressure ulcers for individuals who are immobile - There needs to be preventative skin care treatment in place at the time for it to count. - If there is not preventative skin care treatment needed, and the skin is just being monitored it should be listed under observation and assessment
9) Care of small uncomplicated pressure ulcers and local skin rashes
10) Management of those with sensory, metabolic, or circulatory impairment with demonstrated clinical evidence of medical instability
11) Chemotherapy
12) Radiation
13) Dialysis
14) Suctioning
15) Tracheostomy Care
16) Infusion Therapy
17) Oxygen-as needed does not count
18) Open lesions other than stasis or pressure sores i.e. cuts
19) Wound care or treatment i.e. pressure ulcer care, surgical wound
20) Intravenous medications
21) Transfusions
22) Medication monitoring
23) Other special treatment or procedure

Table 4: interRAI Adult Medical Treatments and Programs

Updated List of Ongoing Medical/Nursing Supervision Services Examples	
interRAI-HC Treatments and Programs	**Recommended for Use in Meeting Adult NF LOC**
N(2)a - Chemotherapy	Yes, score at or above 1
N(2)b - Dialysis	Yes, score at or above 1
N(2)c - Infection control - e.g. isolation, quarantine	No
N(2)d - IV medication	Yes, score at or above 1
N(2)e - Oxygen therapy	No
N(2)f - Radiation	Yes, score at or above 1
N(2)g - Suctioning	Yes, score at or above 1
N(2)h - Tracheostomy care	Yes, score at or above 1
N(2)i - Transfusion	Yes, score at or above 1
N(2)j - Ventilator or respirator	Yes, score at or above 1
N(2)k - Wound care	Yes, score at or above 1
N(2)l - Scheduled toileting program	No
N(2)m - Palliative care program	No
N(2)n - Turning/repositioning program	Yes, score at or above 1
I(1)a- Hip Fracture	Yes, score of 2
I(1)b - Other Fracture	Yes, score of 2
I(1)l - COPD	Yes, score of 2
I(1)m - CHF	Yes, score of 2
I(1)t - Cancer	Yes, score of 2
J(7)a - Instability of conditions	Yes, score of 1
K(3) - Nutritional Intake	Yes, score of 5, 6, 7, or 8
L(1) - Most severe pressure ulcer	Yes, score of 5, 6, 7, or 8
L(4) - Major Skin Problems	Yes, score of 1
I(2) - Other Disease Diagnoses*	To be evaluated

**Clinical review recommended*

Risk Factors and Cognition Considerations for Adult Nursing Facility Level of Care

DHHS should consider modifying criteria and policy manuals supporting the administration of the interRAI-HC for Adult NF LOC determinations to more closely align with the language specific to Risk Factors and Cognition considerations included in the interRAI-HC tool. During the in-depth alignment review, **Optumas** identified several areas where clinical input from a qualified Nebraska clinician(s) was necessary. This input would ensure any proposed updated Risk Factors and/or Cognition considerations align with DHHS's current policy goals and allow for clinical consideration of any potential impact to those currently eligible for services.

Options for Adult NF LOC Risk Factors and Cognition Considerations Criteria

- Option 1: No change to the Risk Factors and Cognition considerations for Adult NF LOC, **or**
- Option 2: Modify criteria and policy manuals supporting the administration of the interRAI-HC for Adult NF LOC determinations to more closely align with the language specific to Risk Factors and Cognition considerations included in the interRAI-HC tool based on input from a qualified Nebraska clinician(s). **RECOMMENDED CHANGE**

Crosswalks connecting the Risk Factors and Cognition considerations are shown below in 'Table 5: Risk Factor Crosswalk to NE Regulation, Proposed Updated Criteria, and interRAI-HC Items' and 'Table 6: Cognitive Considerations Crosswalk to NE Regulation, Proposed Updated Criteria, and interRAI-HC Items', respectively. Dr. Arthur Pelberg, Chief Medical Consultant at **Optumas**, and Dr. Janine Fromm, DHHS's Executive Medical Officer, reviewed and approved the proposed alignment of items as presented in the following tables. Asterisks identify examples (not intended to be all-inclusive) of areas where additional input from qualified Nebraska clinicians and DHHS staff should be consulted before finalizing the scores for all proposed ADL criteria used in the assessment process.

Table 5: Risk Factor Crosswalk to Nebraska Regulation, Proposed Updated Criteria, and interRAI-HC Items

Adult NF LOC Risk Factors			
Risk Factor	**NE Regulations**	**Proposed Updated Criteria**	**interRAI-HC Item(s)**
Behavior	The ability to act on one's own behalf, including the interest or motivation to eat, take medications, care for one's self, safeguard personal safety, participate in social situations, and relate to others in a socially-appropriate manner.	Individual meets 1 or more of the following criteria*: - Individual scores at or above "2: Exhibited on 1-2 of last 3 days" on any of the 6 items comprising E(3) - Individual scores at or above "3 Limited assistance -- help on some occasions" in the "Capacity" component of item G(1)d - Individual scores "2 Decline, distressed" on item F(3)	E(3) Behavior Symptoms – Wandering, verbal abuse, physical abuse, socially inappropriate or disruptive behavior, inappropriate public sexual behavior or public disrobing, resists care. G(1)d Managing medications – How medications are managed (e.g., remembering to take medicines opening bottles, taking correct drug dosages, giving injections, applying ointment) F(3) Change in social activities in last 90 days (or since last assessment if less than 90 days ago) - Decline in level of participation in social, religious, occupational, or other preferred activities.
Frailty	The ability to function independently without the presence of a support person, including good judgment about abilities and combinations of health factors to safeguard well-being and avoid inappropriate safety risk.	Individual meets 3 or more of the following criteria*: - Individual scores at or above "2 Supervision—Oversight/cuing" in the "Capacity" component of item G(1)c - Individual scores at or above "2 Supervision—Oversight/cuing" in the "Capacity" component of item G(1)e - Individual scores at or above "2 Supervision—Oversight/cuing" in the "Capacity" component of item G(1)g	G(1)c Managing finances – How bills are paid, checkbook is balance, household expenses are budgeted, credit card account is monitored G(1)e Phone use – How telephone calls are made or received (with assistive devices such as large numbers on telephone, amplification as needed) G(1)g Shopping – How shopping is performed for food and household items (e.g., selecting items, paying money) – EXCLUDE TRANSPORTATION G(1)h Transportation – How travels by public transportation (navigating system, paying fare) or

		- Individual scores at or above "2 Supervision—Oversight/cuing" in the "Capacity" component of item G(1)h - Individual scores at or above "2 Exhibited on 1-2 of last 3 days" on item E(3)f - Individual scores "1 -- Yes" on item J(2) Individual scores "1 -- Yes" on item K(2)a	driving self (including getting out of house, into and out of vehicles) E(3)f Resists care – e.g., taking medications/injections, ADL assistance, eating J(2) Recent falls K(2)a Nutritional issues -- Weight loss of 5% or more in LAST 30 DAYS, or 10% or more in LAST 180 DAYS
Safety	The availability of adequate housing, including the need for home modification or adaptive equipment to assure safety and accessibility; the existence of a formal and/or informal support system; and/or freedom from abuse or neglect.	Individual meets 1 or more of the following criteria: - Individual scores "1: Yes" to any in Q(1). Individual scores "No informal helper" on P(1) and "3: 8 hours or more" on F(4).	Q(1) Home Environment – disrepair of the home, squalid condition, inadequate heating or cooling, lack of personal safety, limited access to home of rooms in home. P(1) Two Key Informal Helpers F(4) Length of Time Alone During the Day. Consider addition of F(1)f - Social Relationships: Neglected, abused, or mistreated*

**DHHS clinical and operational staff consulted on finalizing scores for all proposed ADL criteria*

Table 6: Cognitive Considerations Crosswalk to Nebraska Regulation, Proposed Updated Criteria, and interRAI-HC Items

Adult NF LOC Cognition Considerations			
Cognition Considerations	**NE Regulations**	**Proposed Updated Criteria**	**interRAI-HC Item(s)**
Memory	Ability to remember past and present events; does not need cueing.	Individual scores "1: Memory problem."	C(2) Memory/Recall Ability – short term memory, procedural memory, situational memory.
Orientation	Fully oriented to person, place, and time.	Individual scores* "2: Behavior present, appears different from usual functioning (e.g., new onset or worsening; different from a few weeks ago)."	C(3) Periodic Disordered Thinking or Awareness – Easily distracted, episodes of disorganized speech, mental function varies over the course of the day.
Communication	Ability to communicate information in an intelligible manner, and the ability to understand information conveyed.	Individual meets 1 or more of the following criteria*: - Individuals scores at or higher than "2: Often understood – Difficulty finding works or finishing thoughts AND prompting usually required" on item D(1) - Individuals scores at or higher than "2: Often understood – Difficulty finding works or finishing thoughts AND prompting usually required" on item D(2) Individual scores at or higher than "3: Exhibited on 2 of the last 3 days" on item J(3)j*	D(1) Making Self Understood – Expressing information content – both verbal and nonverbal. D(2) Ability To Understand Others (Comprehension)-- Understanding verbal information content (however able; with hearing appliance normally used) J(3)j Health Conditions - Aphasia
Judgment	Ability to solve problems well and make appropriate decisions.	Individual meets 1 or more of the following criteria: - Individuals scores at or higher than "2: Minimally impaired –	C(1) Cognitive Skills for Daily Decision Making - Making decisions regarding tasks of daily life – e.g. when to get up or have meals, which clothes to wear or activities to do.

Adult NF LOC Cognition Considerations			
Cognition Considerations	**NE Regulations**	**Proposed Updated Criteria**	**interRAI-HC Item(s)**
		In specific recurring situations, decision become poor or unsafe; cues/supervision necessary at those times" on item C(1) Individuals scores "2: Declined" on item C(5)	C(5) - Change in decision making as compared to 90 days ago (or since last assessment)
Dementia	N/A	Individual scores "1: Yes" on item C(4) AND meets 1 or more of the following criteria*: - Individuals scores at or higher than "2: Diagnosis present, receiving active treatment" on item I(1)c Individual scores at or higher than "2: Diagnosis present, receiving active treatment" on item I(1)d*	C(4) Acute change in mental status from person's usual functioning -- e.g., restlessness, lethargy, difficult to arouse, altered environmental perception I(1)c - Alzheimer's disease I(1)d - Dementia other than Alzheimer's disease

**DHHS clinical and operational staff consulted on finalizing scores for all proposed ADL criteria*

Traumatic Brain Injury (TBI) Nursing Facility Level of Care

It is **Optumas'** recommendation that the TBI NF LOC tool and criteria match the Adult NF LOC tool and criteria. Therefore, the NF tool and criteria components of TBI Waiver Eligibility will be identical to those presented above for the Adult NF LOC determination process. **Optumas** recommends that TBI Waiver Eligibility be determined by meeting the Adult NF LOC thresholds *and* documentation of a TBI diagnosis issued by a qualified physician.

Options for Adult NF LOC TBI

- Option 1: Continue the use of existing tool, criteria, and process, **or**
- Option 2: Change the Adult NF LOC TBI tools, criteria, and process to match the changes proposed above for the Adult NF LOC to ensure that the Adult NF LOC TBI tools, criteria, and process remain aligned exactly with the Adult NF LOC tools, criteria,, and process (changing both to remain aligned would maintain the current state of alignment between the two). **RECOMMENDED CHANGE**

Child Nursing Facility Level of Care

Optumas' primary recommendations on the tool and criteria for Child NF LOC are the introduction of the interRAI Pediatric Home Care Assessment (PEDS-HC) and substantive changes to the existing criteria to reflect more age-appropriate developmental benchmarks. As discussed in prior conversations with DHHS, while some themes and consistent best practices can be identified in the Adult NF LOC process across states, there is very little consistency in how Child NF LOC processes are conducted across the country. As such, **Optumas** has recommended multiple specific areas where input from a qualified Nebraska clinician(s) should be sought, as well as further recommending that those same clinicians review the overall Child NF LOC process to ensure the final results are consistent with the State's policy goals.

Child Age Groupings

Currently, Child NF LOC Criteria are divided into two age groups. These age groups and their corresponding criteria for meeting Child NF LOC are described as follows in regulation:

"Age 0-36 Months
- The child must have needs related to a minimum of one defined Medical Condition or Treatment as listed in 471 NAC 12-003.05A1.

Age 3-17 Years
- At least one medical condition and treatment need (see 471 NAC 12-003.05A1), or
- Limitations in at least six Activities of Daily Living (ADL) (see 471 NAC 12-003.05A2), or
- Limitations in at least four Activities of Daily Living (ADL) (see 471 NAC 12-003.05A2) and at the presence of least three other considerations (see 471 NAC 12-003.05A3)."

Optumas recommends DHHS consider changing the criteria to include more age groups to allow for the implementation of developmental benchmarks and the use of criteria that work in conjunction with what **Optumas** has recommended for Adult NF LOC (see Appendix II). For example, a four-year-old may experience limitations in bathing themselves whether they have a disability or not. Developmental benchmarks will account for these nuances. Developmental benchmarks will allow the State to accurately capture which ADLs are appropriate for children of varying ages and so the phrase "…relative to State benchmarks…" has been included in the proposed new regulatory language below. **Optumas** recommends maintaining this approach. Additionally, to ensure alignment between the criteria and the tool, **Optumas** would recommend for the younger age band to be expanded to 0-48 months as the interRAI PEDS-HC tool is not validated for children under 4 years of age. In sum, **Optumas'** preliminary recommendations are that the following criteria be established:

"Age 0-48 Months
- Must have at least one defined Medical Treatment or Medical Condition.

Age 4-17 Years
- Must have at least one defined Medical Treatment or Medical Condition, or
- Limitations in six or more ADLs relative to State developmental benchmarks, or

- Limitations in four or more ADLs relative to State developmental benchmarks AND the presence of at least 2 Other Considerations."

Optumas recommends DHHS consider a review of Child NF LOC criteria thresholds by a Nebraska-based specialty clinician(s) to review and determine appropriateness for NE population.

Options for Child NF LOC Age Groupings

- Option 1: Continue use of current criteria age groups 0-36 months and 3-17 years, **or**
- Option 2: Update age groups to be 0-48 months and 4-17 years to align with parameters the interRAI PEDS-HC tool. **RECOMMENDED CHANGE**

Options for Child NF LOC Criteria Thresholds

- Option 1: Continue use of current criteria, **or**
- Option 2: Consult with Nebraska-based specialty clinician(s) on use of current or adjusted criteria moving forward. **RECOMMENDED CHANGE**

Child Activities of Daily Living Descriptions

Consistent with best practices, **Optumas** recommends that DHHS modify the Child NF LOC criteria descriptions to align the language more closely with that used in the interRAI PEDS-HC tool. Aligning the language reduces the chance for confusion when referencing where the criteria are measured in the interRAI PEDS-HC tool.

Options for Child NF LOC alignment

- Option 1: No change to current criteria, ***or***
- Option 2: Modify the Child NF LOC criteria descriptions to align the language more closely with that used in the interRAI PEDS-HC tool. **RECOMMENDED CHANGE**

'Table 7: Proposed Updated Criteria Language to Ensure Alignment of Child NF LOC Criteria and Tool Descriptions' shows how ADL components of the proposed updated criteria would align with components of the interRAI PEDS-HC tool. The DHHS legal team should be consulted for the purposes of reviewing the proposed language. These proposed modifications may require updates to promulgated regulation.

There appears to be a typographical error in the children's regulation using an 'and' for "…Medical Treatments 'and' Conditions…" when the following language references 'or' for "…Medical Treatment 'or' Conditions…". For consistency, we recommend that DHHS change the initial reference in 471 NAC 12-003.05(2)(a) to 'or'.

Table 7: Proposed Updated Criteria Language to Ensure Alignment of Child Nursing Facility Level of Care Criteria and Tool Descriptions

Child NF LOC ADL Alignment			
ADL	**NE Regulations**	**Proposed Updated Criteria***	**interRAI PEDS-HC Item(s)**
Bathing	471 NAC 12-003.05A2(1) - The ability to take a full-body bath, shower, or bed bath, including transferring in and out of the tub or shower, and cleansing each part of the upper and lower body. Washing the back or hair is not included when determining whether the client has a limitation. Bathing may occur on a less than daily basis. If the child is younger than 48 months of age and requires the physical assistance of another at all times, but is physically able to participate, a bathing limitation is not present.	Individual scores at or higher than the developmental benchmark established for “Bathing” as defined by the interRAI PEDS-HC. Please refer to ‘Appendix II: Developmental Benchmarks’ for developmental benchmarks.	G(2)a - Bathing - How takes a full-body bath or shower. Includes how person transfers in and out of tub or shower and how each part of body is bathed: arms, upper and lower legs, chest, abdomen and perineal area. EXCLUDE WASHING OF BACK AND HAIR.
Dressing	471 NAC 12-003.05A2(2) - The ability to put on and remove clothing from upper and lower body. This includes the ability to put on or remove physician ordered prosthetic/orthotic devices, braces and compression stockings. This does not include laying out clothing, snaps, fasteners or tying shoelaces.	Individual scores higher than the development benchmark established for “Dressing Upper Body” OR ”Dressing Lower Body” as defined by the interRAI PEDS-HC**.** Please refer to ‘Appendix II: Developmental Benchmarks’ for developmental benchmarks.	G(2)c - Dressing Upper Body - How dresses and undresses (street clothes, underwear) above the waist, including prostheses, orthotics, fasteners, pullovers, etc. G(2)d - Dressing Lower Body - How dresses and undresses (street clothes, underwear) from the waist down, including prostheses, orthotics, belts, pants, skirt, shoes, fasteners, etc.
Personal Hygiene (Grooming)	471 NAC 12-003.05A2(5) - The ability to complete at least two of the following tasks: comb/brush hair, brush teeth, shave, wash and dry face and hands. This excludes baths, showers, applying make-up, styling hair, and	Individual scores higher than the developmental benchmark established for “Personal Hygiene” as	G(2)b - Personal Hygiene - How manages personal hygiene, including combing hair, brushing teeth, shaving, applying make-up, washing and drying

Child NF LOC ADL Alignment			
ADL	**NE Regulations**	**Proposed Updated Criteria***	**interRAI PEDS-HC Item(s)**
	flossing teeth. If the child is younger than 48 months of age and requires the help of another to complete a task, but the child is physically able to participate, a personal hygiene limitation is not present.	defined by the interRAI PEDS-HC. Please refer to 'Appendix II: Developmental Benchmarks' for developmental benchmarks.	face and hands. EXCLUDE BATHS AND SHOWERS.
Eating	471 NAC 12-003.05A2(3) - The ability to get food and drink from the dish/cup to the mouth or to load utensils, to use adaptive feeding devices without assistance, or to eat without constant supervision due to difficulties with swallowing or choking. This includes the intake of nourishment by other means (for example, gastrostomy, jejunostomy, or nasogastric tube, or intravenously with total parenteral nutrition). This does not include meal preparation, cooking, serving, cutting food, or opening containers. If the child is 60 months or older and needs constant supervision due to documented incidents of choking, an eating limitation is present.	Individual scores higher than the developmental benchmark established for "Eating" as defined by the interRAI PEDS-HC**.** Please refer to 'Appendix II: Developmental Benchmarks for developmental benchmarks.	G(2)l - Eating - How eats and drinks (regardless of skill). Includes intake of nourishment by other means (such as tube feeding or total parenteral nutrition).
Mobility/Locomotion	471 NAC 12-003.05A2(4) - The ability to ambulate or move between locations on the same level indoors and accessible outdoor surfaces with or without the assist of a mobility device. This includes devices such as a walker, cane, wheelchair or two crutches. If a wheelchair is the primary mode of mobility,	Individual scores higher than the development benchmark established for "Walking" OR "Locomotion" as defined by the interRAI PEDS-HC. Please refer to 'Appendix II: Developmental Benchmarks'	G(2)e - Walking - How walks between locations on the same floor indoors. G(2)f - Locomotion - How moves between locations on the same floor (walking or wheeling). If in wheelchair, self-sufficiency once in the chair.

Child NF LOC ADL Alignment			
ADL	**NE Regulations**	**Proposed Updated Criteria***	**interRAI PEDS-HC Item(s)**
	the ability to be self-sufficient once in the wheelchair	for developmental benchmarks.	
Transferring	471 NAC 12-003.05A2(7) - The ability to move from one surface to another throughout the day including in and out of bed/crib, chair, wheelchair, and from the floor. Additionally, this includes the ability to move from a sitting to a standing position, and vice versa. This excludes transfers to and from the toilet, bathing area, high stools/chairs, and in and out of a vehicle.	Individual scores at or higher than the development benchmark established for "Transfer Toilet" OR "Transfers" as defined by the interRAI PEDS-HC. Please refer to 'Appendix II: Developmental Benchmarks' for developmental benchmarks.	G(2)g - Transfer Toilet - How moves on and off the toilet or commode. G(2)k - Transfers - Moves between surfaces, to/from bed, chair, wheelchair, standing position. EXCLUDE BATH/SHOWER AND TOILET TRANSFERS
Toileting	471 NAC 12-003.05A2(6) - The ability to get to and from the toilet, commode, bedpan, or urinal, including transfer to and from the toilet, management of clothing, and cleansing.	Individual scores higher than the developmental benchmark established for "Toilet Use" as defined by the interRAI PEDS-HC. Please refer to 'Appendix II: Developmental Benchmarks' for developmental benchmarks.	G(2)h - Toilet Use - How uses the toilet room (or commode, bedpan, urinal), cleanses self after toilet use or incontinent episode(s), changes bed pad, manages ostomy or catheter, adjusts clothes. EXCLUDE TRANSFER ON AND OFF TOILET

**DHHS legal staff consulted on regulatory language for all proposed ADL criteria*

Additional Child Activities of Daily Living Categories

In addition, DHHS asked **Optumas** if there were other ADL categories that were available in the tools under consideration that the State may want to utilize for the Child population. There are two additional criteria from the interRAI PEDS-HC tool that **Optumas** identified: “Bed Mobility” and “Positioning”.

Optumas does not recommend the addition of these ADLs to Child NF LOC determinations currently. It is **Optumas’** position that “Bed Mobility” and “Positioning” do not serve as effectively as the established ADL categories in determining NF LOC. The existing ADLs capture more typical categories of potential need than the two additional ADLs included in the interRAI PEDS-HC tool. It should also be noted that the inclusion of these additional ADLs would increase the number of ADLs by which an individual could meet level of care and would alter the current ratio of ADLs to medical treatments/observations and risk factors. Any such addition would carry the potential for unintended population impacts. However, the State may want to revisit these additional ADLs in the future to determine if their inclusion would be consistent with the State’s policy goals at that time. For example, if the State wanted to increase the emphasis on ADLs, it could include the additional ADLs from the interRAI PEDS-HC tool in the Child NF LOC determination process, thereby allowing additional opportunities to identify dependencies in ADLs.

Options for Child NF LOC for Additional ADLs

- Option 1: No change to criteria, **RECOMMENDED CHANGE or**
- Option 2: Include additional ADLs in Child NF LOC assessment currently.

Medical Treatments or Conditions for Child Nursing Facility Level of Care

DHHS should consider modifying criteria referring to Medical Treatments or Conditions to better align with the interRAI PEDS-HC tool. As shown in Table 8, Nebraska regulation 471 NAC 12-003.02A1a(i) lists the following treatments as an *inclusive* list of Medical Treatments or Conditions with which children can qualify for NF LOC:

Like the adult interRAI-HC tool, the children's interRAI PEDS-HC tool addresses medical treatments and conditions similar to current DHHS regulations for adults but contrary to current DHHS regulations for children. Using a *non-inclusive* list, it utilizes examples to allow for appropriate clinical judgment under the assumption that developing an exhaustive medical treatment or observation list is not practical. 'Table 9: interRAI PEDS-HC Formal Medical Treatments' shows the interRAI PEDS-HC formal medical treatment list. A clinician(s) could utilize an item not on this list to qualify an individual if, in the clinician(s)'s professional judgment, the treatment/program they documented/observed was consistent with the level of need of the treatments/programs that are referenced in the *non-inclusive* list.

Options for Child NF LOC Medical Treatments or Conditions Criteria

- Option 1: Continue the use of existing criteria pertaining to an *inclusive* Medical Treatment or Condition list for Child NF LOC determination (Table 8), **or**
- Option 2: Change to the *non-inclusive* Medical Treatment or Condition list (Tables 9 and 10) to align with recommended interRAI PEDS-HC tool. **RECOMMENDED CHANGE**

'Table 8: Nebraska Regulations on Child NF LOC Medical Treatments' shows NE regulations on Child NF LOC Medical Treatments. 'Table 10: Child NF LOC Defined Medical Conditions Crosswalk to NE Regulation, Proposed Updated Criteria, and interRAI PEDS-HC Items' shows the crosswalk between NE regulation on Child NF LOC Medical Conditions along with comparable items on the interRAI PEDS-HC tool. This non-inclusive list of Medical Treatments or Conditions should be used as a guide to inform the assessment process. DHHS legal and clinical staff should determine how best to incorporate it into the LOC process.

Please note, **Optumas'** Chief Medical Consultant has reviewed the list of Formal Medical Treatments in the interRAI PEDS-HC and recommended that a score higher than "0: Not ordered AND did not occur" should qualify the assessed individual as receiving a Medical Treatment under **Optumas'** recommended updates to the Child NF LOC criteria. As part of the implementation process, **Optumas** recommends DHHS seek ongoing input on the proposed scoring from qualified Nebraska clinicians and DHHS staff included in the assessment process to ensure that any population impact is minimized or completely mitigated.

Table 8: Nebraska Regulations on Child Nursing Facility Level of Care Medical Treatments

Current NE Child Medical Treatments
NE Medical Treatments
1) Open Pressure Ulcer/Dressing Changes
2) Peritoneal Dialysis
3) Ventilator Use
4) Nasopharyngeal Aspiration And Throat Suctioning
5) Daily Continuous Oxygen with Oximetry Monitoring
6) IV Therapy / Infusion
7) Tube Feeding
8) Daily Bladder Catheterization
9) IV Coagulation Factor, Packed Red Blood Cells / Platelets Or Enzyme Infusions
10) Antineoplastic Therapy
11) Chronic Pain Management Program

Table 9: interRAI PEDS-HC Formal Medical Treatments

Updated List of Medical Treatments: Examples	
interRAI PEDS-HC Formal Treatments	**Recommended for Use in Child NF LOC by Optumas CMO**
N(2)a - Chemotherapy	Yes, score at or above 1
N(2)b - Hemodialysis	Yes, score at or above 1
N(2)c - Peritoneal dialysis	Yes, score at or above 1
N(2)d - Infection Control	No
N(2)e - IV medication	Yes, score at or above 1
N(2)f - Routine Oxygen Therapy	Yes, score at or above 1
N(2)g - Radiation	Yes, score at or above 1
N(2)h - Nasopharyngeal suctioning	Yes, score at or above 1
N(2)i - Tracheotomy Care	Yes, score at or above 1
N(2)j - Transfusion	Yes, score at or above 1
N(2)k - Ventilator or respirator	Yes, score at or above 1
N(2)l - Wound Care	Yes, score at or above 1
N(2)m - Nebulizer care	No
N(2)n - Urinary Catheter Care	Yes, score at or above 1
N(2)o - Comatose or persistent vegetative state	Yes, score at or above 1
N(2)p - Condition-specific screening	No
N(2)q - Continuous positive airway pressure (CPAP) or bilevel positive airway pressure (BiPAP)	Yes, score at or above 1
N(2)r - Breathing vest	Yes, score at or above 1
N(2)s - Other*	To be evaluated
I(1)g - Spinal cord dysfunction	Yes, score of 2
I(1)h - Cerebral palsy	Yes, score of 2
I(1)i - Macro/Microcephaly	Yes, score of 2
I(1)k - Muscular dystrophies	Yes, score of 2
I(1)l - Seizure Disorder	Yes, score of 2
I(1)m - Traumatic brain injury	Yes, score of 2
I(1)p - Congenital heart disorder	Yes, score of 2
I(1)u - Cystic Fibrosis	Yes, score of 2
1(1)kk - Cancer	Yes, score of 2
I(1)nn - Explicit terminal prognosis	Yes, score of 2
I(1)oo - Failure to Thrive	Yes, score of 2
I(1)pp - Renal Failure	Yes, score of 2
H(2) - Urinary Collection Device	Yes, score of 1, 2, or 3
J(7)d - Pain Control	Yes, score of 2 or 4
J(8)a - Instability of Conditions	Yes
J(8)c - Instability of Conditions	Yes
K(3) - Mode of Nutritional Intake	Yes if score 5-8
L(1) - Most Severe Pressure Ulcer	Yes if score 3,4
N(6)a - Hospital Use Admission to inpatient (overnight)	Yes

**Clinical review recommended*

Table 10: Child Nursing Facility Level of Care Defined Medical Conditions Crosswalk to Nebraska Regulation, Proposed Updated Criteria, and interRAI PEDS-HC Items

Child NF LOC Medical Conditions			
Medical Condition	**NE Regulations**	**Proposed Updated Criteria**	**interRAI PEDS-HC Item(s)**
Epilepsy	Including one of the following: a. Convulsive epilepsy with generalized tonic-clonic seizures that occur monthly for at least three months despite compliance with prescribed treatment; or b. Non-convulsive epilepsy with dyscognitive seizures or absence seizures that occur weekly for at least three months despite compliance with prescribed treatment.	As part of the implementation process, Optumas will seek ongoing input from qualified Nebraska clinicians and DHHS staff included in the assessment process to ensure that any population impact is minimized or completely mitigated.	Addressed as a write-in sub-category under the Neurological and Neuromuscular
Fluctuating, inconsistent medical condition:	…that has required the child to receive hospitalization related to a single medical condition: a. Three or more times in the past 12 months; or b. For at least 30 days, if the child is less than 12 months old; **and**	Same as above?	Major categories (each with multiple sub-categories) - Musculoskeletal - Neurological and Neuromuscular - Cardiovascular/ Circulatory - Respiratory - Gastrointestinal - Metabolic Disorders - Infections - Other
Other Condition	A condition which a licensed medical provider has documented as terminal or a persistent condition in which the absence of active treatment would result in hospitalization.	Same as above?	Other Medical Diagnoses

Other Considerations for Child Nursing Facility Level of Care

DHHS should consider modifying criteria and policy manuals supporting the administration of the interRAI PEDS-HC for Child NF LOC determinations to more closely align with the language specific to Other Considerations included in the interRAI PEDS-HC tool. During the in-depth alignment review, **Optumas** identified several areas where clinical input from a qualified Nebraska clinician(s) was necessary. This input would ensure any proposed updated Other Considerations align with DHHS's current policy goals and allow for clinical consideration of any potential impact to those currently eligible for services. Additionally, current regulations require that a child meet three of four Other Considerations (Vision, Hearing, Communication, and Behavior). It is important to note that the Other Consideration 'Behavior' only applies to children over 60 months. These requirements are more restrictive than peer States.

Options for Child NF LOC Other Considerations Criteria

- Option 1: No change to Other Considerations for Child NF LOC, ***or***
- Option 2: Modify criteria and policy manuals supporting the administration of the interRAI PEDS-HC for Child NF LOC determinations to more closely align with the language specific to Other Considerations included in the interRAI PEDS-HC tool based on input from a qualified Nebraska clinician(s) and decrease required Other Considerations from three of four to two of four. **RECOMMENDED CHANGE**

Crosswalks connecting Other Considerations to regulation are shown below in 'Table 11: Other Considerations for Children Age 36 Months through 17 Years Crosswalk to NE Regulation, Proposed Updated Criteria, and interRAI PEDS-HC Items'. As part of the implementation process, **Optumas** recommends DHHS seek ongoing input from qualified Nebraska clinicians and DHHS staff included in the assessment process to ensure that any population impact is minimized or completely mitigated.

Table 11: Other Considerations for Children Age 36 Months through 17 Years Crosswalk to Nebraska Regulation, Proposed Updated Criteria, and interRAI PEDS-HC Items

Child NF LOC Other Considerations			
Other Consideration	**NE Regulations**	**Proposed Updated Criteria**	**interRAI PEDS-HC Item(s)**
Vision*	The child has a documented visual impairment that is defined as a visual acuity of 20/200 or less in the better eye with the use of a correcting lens. When the child is not able to participate in testing using the Snellen or comparable methodology, documentation of an alternate method that demonstrates visual acuity is required.	Individual scores higher than "3: Severe difficulty – Object identification in question, but eyes appear to follow objects; sees only light, colors, shapes."	D(4) Vision – Ability to see in adequate light (with glasses of with other visual appliance normally used). D(5) Distance Vision – Ability to see in adequate light (with glasses of with other visual appliance normally used).
Hearing*	The child has a documented hearing impairment that is defined as the inability to hear at an average hearing threshold of 1000, 2000, 3000 and 4000 hertz (Hz) with the high fence set at an average of 65 decibels (dB) or higher in the better ear.	Individual scores higher than "2: Moderate difficulty – Problem hearing normal conversation, requires quiet setting to hear well."	D(3) Hearing – Ability to hear (with hearing appliance normally used).
Communication	The child is not able to communicate his or her needs by any means. This includes speaking, writing, sign language, or use of a communication device. This does not include speaking a language other than English.	Individual scores higher than "4: Rarely or never understood."	D(1) Making Self Understood (Expression) – Expressing information content – both verbal and nonverbal.
Behavior (applies only to age 60 months or older)	The child requires interventions based on a documented behavior management program developed and monitored by a psychiatrist, psychologist, mental health practitioner, or school counselor.	Individual scores higher than "1: Present but not exhibited in the last 3 days" on any of the behavior items listed.	E(3) Behavior Symptoms – wandering, verbal abuse, Physical abuse, socially inappropriate or disruptive behavior, inappropriate public sexual behavior or public disrobing, resists care.

**DHHS clinical consulted on finalizing scores for Other Considerations*

Additional Considerations

Establishing Priority Populations for Adults and/or Children

It is possible to conceive of a time in the future where enrollment in the AD waiver may require a waiting list. In that instance, **Optumas** recommends that DHHS structure the enrollment process such that those with the highest need would receive priority for waiver services. The data resulting from the scaled responses to the ADL items in the interRAI-HC or interRAI PEDS-HC tools could be used to determine priority levels for adults or children meeting NF LOC. As shown in the "Updated Criteria" column in Table 1, **Optumas** identifies a limitation in an ADL category when an individual is scored at or higher than "2: Supervision" in the corresponding component(s) of the interRAI-HC tool. To establish a hierarchical system that could be used in the future to establish priority populations, adults and/or children meeting NF LOC at or more than some pre-determined number of points above this threshold (e.g., enhanced threshold) could be categorized as "Priority 1" individuals. Adults and/or children meeting NF LOC by scoring at or above the basic threshold but below the enhanced threshold would be categorized as "Priority 2" individuals. **Optumas** recommends the thresholds be developed in conjunction with a qualified Nebraska clinician(s).

Options for Adult and/or Children NF LOC to further delineate Level(s) of Need

- Option 1: No change to current practice, continue to consider individuals who meet NF LOC without regard to intensity of need, **or**
- Option 2: Develop a Priority Level process for individuals who meet NF LOC based on ADL Limitation Thresholds. Consider a process that establishes pre-determined thresholds for Priority 1 individuals, or those with more acute needs, and Priority 2 individuals, or those with relatively less acute needs. This process will require input from a qualified Nebraska clinician(s). Do not implement unless a waiting list exists and DHHS needs to direct limited resources towards the neediest participants. **RECOMMENDED CHANGE**

Clarifying Hierarchy of Medical Treatment or Observation for Children

Current language in DHHS regulation is as follows for Child NF LOC: complex

> *"…the present medical condition or treatment must: 1. Impact the child's functioning or independence on a daily basis; and 2. Requires physical assistance of another person: a. To prevent a decline in health status; or b. When the child is physically or cognitively unable to self-perform the medically necessary treatments."*

This language is interpreted as being an additional criterion in the process of qualifying for Child NF LOC. Children who have significant medical Treatments (e.g. Chemotherapy) should meet NF LOC without further evaluation.

Options for Child NF LOC Medical Treatment or Condition Additional Criteria

- Option 1: Continue the use of 12-003.05A1b: "Additional Criteria for Medical Conditions and Treatments" as additional criteria pertaining to Medical Treatment or Observation components of children NF LOC determination, **or**

- Option 2: Change to the use of 12-003.05A1b: to "Criteria for Medical Conditions and Treatments" as stand-alone criteria pertaining to Medical Treatment or Observation components of Child NF LOC determination. **RECOMMENDED CHANGE**

Final Recommendations

Table 12: Final Optumas Nursing Facility Level of Care Recommendations

Final NF LOC Recommendations				
Page Number	**NF LOC Category**	**Decision Point**	**Recommended Option**	**Recommended Option Text**
24	Adult Tool	Assessment Tool	Option 3	**Optumas** recommends the existing assessment tool be replaced.
26	Adult Tool	Tools for Consideration	interRAI-HC	**Optumas** recommends that the interRAI-HC tool be adopted in NE for Adult NF LOC determination.
27	Child Tool	Assessment Tool	Option 2	**Optumas** recommends the existing assessment tool be replaced.
29	Child Tool	Tools for Consideration	interRAI PEDS-HC	**Optumas** recommends that the interRAI PEDS-HC tool be adopted in NE for Child NF LOC determination.
30	Adult Criteria	Adult NF LOC ADL alignment	Option 2	Modify the Adult NF LOC criteria descriptions to align the language more closely with that used in the interRAI-HC tool.
34	Adult Criteria	Adult NF LOC for Additional ADLs	Option 1	No change to criteria.
35	Adult Criteria	Adult NF LOC Medical Treatment or Observation Criteria	Option 2	Change to the interRAI-HC Medical Treatments and Programs list (Table 3 marked 'yes') to better align with recommended tool, maintaining the current non-inclusive approach with a list consistent with the interRAI-HC tool.
38	Adult Criteria	Adult NF LOC Risk Factors and Cognition Considerations Criteria	Option 2	Modify criteria and policy manuals supporting the administration of the interRAI-HC for Adult NF LOC determinations to more closely align with the language specific to Risk Factors and Cognition considerations included in the interRAI-HC tool based on input from a qualified Nebraska clinician(s).
43	TBI Criteria	Adult NF LOC TBI	Option 2	Change the Adult NF LOC TBI tools, criteria, and process to match the changes proposed above for the Adult NF LOC to ensure that the Adult NF LOC TBI tools, criteria, and process

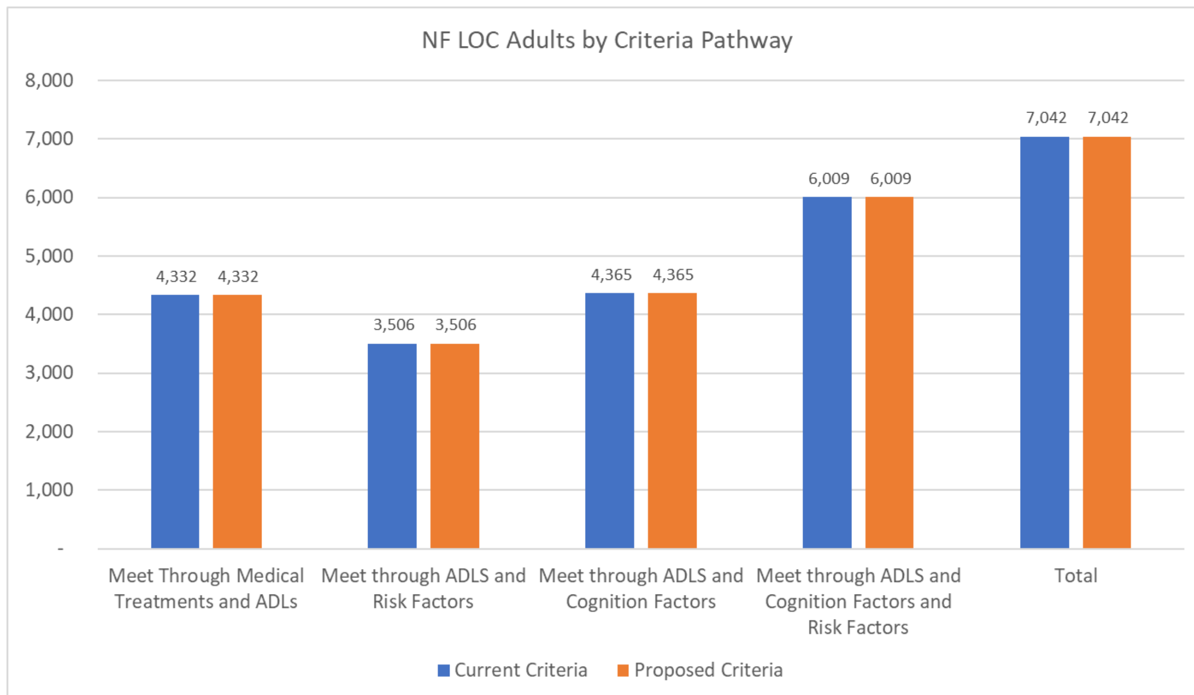
Final NF LOC Recommendations				
Page Number	**NF LOC Category**	**Decision Point**	**Recommended Option**	**Recommended Option Text**
				remain aligned exactly with the Adult NF LOC tools, criteria, and process (changing both to remain aligned would maintain the current state of alignment between the two).
45	Child Criteria	Child NF LOC Age Groupings	Option 2	Update age groups to be 0-48 months and 4-17 years to align with parameters the interRAI PEDS-HC tool.
45	Child Criteria	Child NF LOC Criteria Thresholds	Option 2	Consult with Nebraska-based specialty clinician(s) on use of current or adjusted criteria moving forward.
46	Child Criteria	Child NF LOC alignment	Option 2	Modify the Child NF LOC criteria descriptions to align the language more closely with that used in the interRAI PEDS-HC tool.
50	Child Criteria	Child NF LOC for Additional ADLs	Option 1	No change to criteria.
51	Child Criteria	Child NF LOC Medical Treatments or Conditions Criteria	Option 2	Change to the non-inclusive Medical Treatment or Condition list (Tables 8 and 9) to align with recommended interRAI PEDS-HC tool.
55	Child Criteria	Child NF LOC Other Considerations Criteria	Option 2	Modify criteria and policy manuals supporting the administration of the interRAI PEDS-HC for Child NF LOC determinations to more closely align with the language specific to Other Considerations included in the interRAI PEDS-HC tool based on input from a qualified Nebraska clinician(s).
57	Additional Considerations	Adult and/or Children NF LOC to further delineate Level(s) of Need	Option 2	Develop a Priority Level process for individuals who meet NF LOC based on ADL Limitation Thresholds.
58	Additional Considerations	Child NF LOC Medical Treatment or Condition Additional Criteria	Option 2	Change to the use of 12-003.05A1b: to “Criteria for Medical Conditions and Treatments” as stand-alone criteria pertaining to Medical Treatment or Observation components of Child NF LOC determination.

Population Analytics

Updating the specificity of the tool's measurement in level of care determination may broaden the population qualifying for NF LOC.

Regardless of the option the State chooses to pursue, validation of the redesigned/new tool may be possible within a sample of the NF eligible population in Nebraska. The existing State-level data are not detailed enough to enable a traditional population impact analysis at this time. A concurrent (i.e. side-by-side) administration of the current tool and any updated or new tool would be required to examine population impacts. Using the data available at this time, **Optumas** has completed some preliminary population analytics. The preliminary population analytics utilize the existing tool to evaluate proposed changes in criteria and have been structured so that the State may further develop the analyses once concurrent administration of the current and proposed tools is complete. Preliminary visuals for Adult and Child NF LOC are included below.

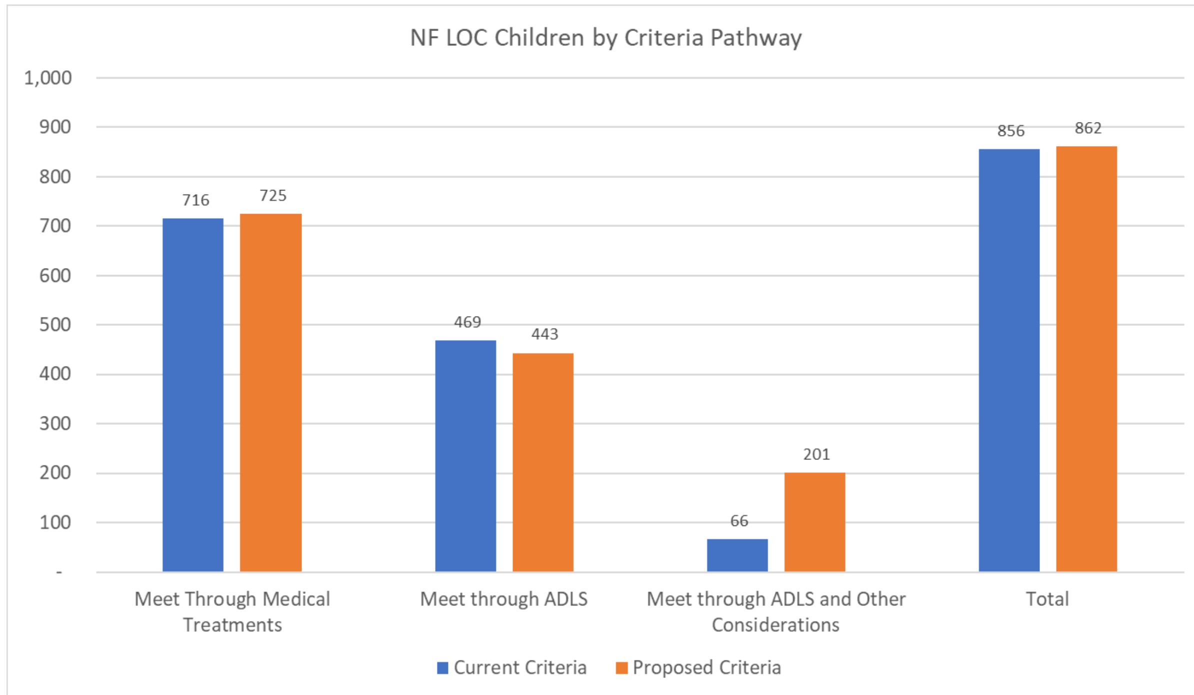
Figure 1: Proposed Criteria – Potential Population Impacts (Adults)



The above visual shows how adults in the NF LOC dataset provided to **Optumas** met NF LOC criteria. The different pathways to NF LOC in the current and proposed criteria are shown on the horizontal x-axis. The size of the bar on the vertical y-axis represents how many adults met the criteria through that pathway. The total number of adults meeting NF LOC is shown on the far right. It is important to note that individuals can meet NF LOC through more than one pathway (i.e. an individual can count towards more than one bar in this graph). Examining the distribution in this manner allowed **Optumas** and the State to evaluate the composition of the existing criteria. The bars representing current (blue) and proposed (orange) criteria in this graph equal each other for two reasons: 1) because **Optumas** was directed to minimize population impact and 2) data for the interRAI-HC tool is not available. **Optumas** recommends that this

visual be updated once additional data become available to confirm that no significant population impacts are occurring.

Figure 2: Proposed Criteria - Potential Population Impacts (Children)



This very similar visual shows how children in the NF LOC dataset provided to **Optumas** met NF LOC criteria. The different pathways to NF LOC in the current and proposed criteria are shown on the horizontal x-axis. The size of the bar on the vertical y-axis represents how many children met the criteria through that pathway. The total number of children meeting NF LOC is shown on the far right. It is important to note that individuals can meet NF LOC through more than one pathway (i.e. an individual can count towards more than one bar in this graph). Examining the distribution in this manner allowed **Optumas** and the State to evaluate the composition of the existing and proposed criteria. The bars representing current (blue) and proposed (orange) criteria indicate that there is minimal negative population impact through the pathways and no negative impact at an aggregate level. The largest change from current to proposed criteria is the increase in the number of children who will qualify through "Other Considerations". This is due to **Optumas'** recommendation that children only have to meet two "Other Considerations" instead of the current threshold of three. Please note that this visual does not capture data that will become available for the interRAI PEDS-HC tool. **Optumas** recommends that this visual be updated once additional data become available to confirm that no significant population impacts are occurring.

To help understand potential population impacts, **Optumas** would also recommend the State stage concurrent assessments during a pilot study of the updated regulations, tools, and criteria. Pilot studies have been used in states that have adopted the interRAI HC and PEDS-HC tools for NF LOC determination to evaluate the efficacy and potential adverse effects of updating the state assessment tool. **Optumas** would recommend that Nebraska, where possible, apply the updated tools and criteria for both Adult and Child NF LOC concurrently with the existing assessment tools and criteria. During this internal pilot study,

applicants to the waiver will be evaluated for NF LOC under the new tools and criteria for approximately three to six months. Should the applicant be denied NF LOC status through their appropriate Adult/Child updated tool and criteria, their application will be reviewed under the existing tool and criteria. Any applicant qualifying under either the updated or existing NF LOC determination process will be granted NF LOC status for a period. After several months of concurrent assessments, the State may utilize the new data obtained to determine if changes are necessary to the updated criteria. After these concurrent assessments, the State would have enough data from the interRAI HC and PEDS-HC tools to determine with greater accuracy which individuals will be most affected by the changes in criteria.

At the conclusion of the pilot study, **Optumas** would be able to produce a NF LOC Criteria Tool for both adults and children which will enable the State to select the desired thresholds for certain components of the NF LOC determination process (e.g. ADLs) and provide instant analysis on the population impact using the data collected. For example, the State will be able to immediately identify which members of their population would lose NF LOC if an additional ADL category was added to the criteria. A live tool with several months data will allow DHHS to evaluate population impacts before making rigid amendments to NF LOC criteria.

Change Management

Waiver Amendment

Nebraska's waivers contain specific sections detailing the LOC required for individuals to participate in each waiver. DHHS will have to review and update State waivers utilizing NF LOC to ensure that all are using the tools and criteria chosen from those outlined by **Optumas** in this document.

Regulatory Changes

The recommended changes to NF LOC tools and criteria above may require regulatory changes to bring Nebraska's regulations into alignment with the proposed tools and criteria. References to specific scores or thresholds may or may not be included. Questions surrounding the appropriate level of detail fall to DHHS legal counsel familiar with the context in which these recommendations will be applied. Wherever possible, regulations should clearly lay out the pathways for meeting NF LOC.

IT Changes

The implementation of the interRAI tools will require the State to pursue one of two IT solutions: 1) the implementation of interRAI tools into existing IT infrastructure or 2) a new contractual agreement with an external interRAI licensed software vendor. **Optumas** recommends that DHHS contract with an external software vendor.

In considering an IT solution, **Optumas** evaluated whether DHHS would be better served by developing an in-house solution. The development of an in-house assessment tool platform includes various considerations from a cost, upkeep, and staffing perspective. Selecting and contracting with an external vendor, while an upfront investment, can yield more cost benefits than the in-house development of a solution. As DHHS does not have several of the technologies required to establish an effective interRAI tool (e.g. a responsive mobile application with secure data storing capabilities), it will likely be more efficient and effective to contract out these services. In addition, DHHS would have to identify existing staff or bring in new staff to develop this tool. The benefits of bringing in an external vendor will be quicker turnaround in initial development and potential updates, as well as accelerated integration with other DHHS systems via the use of more specialized external software vendor staff.

Training Needs

Optumas has engaged in discussions on assessor training with interRAI. At this time, **Optumas'** recommendation is to bring in interRAI Fellows to conduct "train the trainer" sessions with the State staff that will charged with overseeing all State assessors. DHHS should also consider that assessors will have to adapt to a new software tool. Many external software vendors can provide a training platform so that assessors are able to progress through the assessment and practice proper codification of all item responses. These training practices should be evaluated through measures of interrater reliability. Should DHHS begin to experience issues with interrater reliability, State assessors must be further educated on interpretation of the items in question.

Staffing Changes

Optumas recommends that staffing changes because of the proposed changes in this report be consistent with DHHS' larger alignment initiative designed to better align services across waiver beneficiaries so that DHHS can provide better care for persons and families. Since the realignment is currently in process, the optimal staffing arrangement is not yet clear. To maximize efficiency, staff should be coordinated across waiver programs.

Conclusion

DHHS and MLTC's work to design the most appropriate and effective Nursing Facility Level of Care (NF LOC) assessment tools and criteria will help achieve the mission of "helping people live better lives". The recommendations included in this report are designed to help DHHS better align its tools and criteria with best practices in NF LOC and achieve the mission of "helping people live better lives". **Optumas** has greatly appreciated the opportunity to work with DHHS on this very important initiative. **Optumas** is ready to assist DHHS in the effort of implementing any of the above recommendations.

Appendices

Appendix I: Additional Information on NF LOC Criteria in Other States

Optumas conducted an analysis of surrounding states waivers and LOC processes. The comparison file (NE NF LOC Surrounding States Waivers Research 2020_6_21.xls) has been provided in the accompanying documents.

Appendix II: Developmental Benchmarks

Developmental benchmarks aid in establishing criteria that account for age appropriate ADLs. As noted in several areas in our alignment recommendations, **Optumas** recommends that DHHS engage a qualified Nebraska clinician(s) to help review the criteria, regulations, and processes in their entirety to ensure they are consistent overall with the State's policy goals. The developmental benchmarks are another area where DHHS should work in conjunction with additional qualified Nebraska clinicians to ensure appropriate minimization of the population impact. The first table below establishes the State benchmark for a child without a developmental disability. For example, a 4-6-year-old child without a developmental disability would be expected to score a 2 – "Independent, setup help only" from the scoring matrix provided in the following table in the "Bathing" component of the interRAI PEDS-HC. Thus, to demonstrate a limitation in the "Bathing" component of the NF LOC criteria, a child between 4-6 years would need to score a 3 – "Limited assistance - Guided maneuvering of limbs, physical" or above.

Proposed Developmentally Adjusted Benchmarks for Child NF LOC Criteria

Developmental Benchmarks				
State ADL	**interRAI PEDS-HC Component**	**4-6 years**	**6-9 years**	**9-18 years**
Bathing	Bathing	3	2	2
Dressing	Dressing Upper Body	2	2	2
	Dressing Lower Body	2	2	2
Eating	Eating	2	2	2
Mobility/Locomotion	Walking	2	2	2
	Locomotion	2	2	2
Personal Hygiene (Grooming)	Personal Hygiene	2	2	2
Toileting	Toilet Use	2	2	2
Transferring	Transfer Toilet	2	2	2
	Transfers	2	2	2

interRAI PEDS-HC ADL Scoring Matrix

interRAI PEDS-HC ADL Scoring	
Score	**Description**
0	Independent - No physical assistance, setup, or supervision in any episode
1	Independent, setup help only - Article or device provided or placed within reach, no physical assistance or supervision in any episode
2	Supervision - Oversight / cueing / monitoring / redirection
3	Limited assistance - Guided maneuvering of limbs, physical
4	Extensive assistance - Weight-bearing support (including lifting limbs) by 1 helper where child /youth still performs 50% or more of subtasks
5	Maximal assistance - Weight-bearing support (including lifting limbs) by 2+ helpers - OR - weight-bearing support for more than 50% of subtasks
6	Total dependence - Full performance by others during all episodes

Appendix III: ADL Scoring

Adult and Child ADL Scoring Comparison: Current NE Regulations compared to interRAI Tools

ADL Scoring Comparison				
Score	**interRAI-HC**	**NE Adult ADL Functional Scoring**	**interRAI PEDS-HC**	**NE Child ADL Functional Scoring***
0	Independent - No physical assistance, setup, or supervision in any episode	Able to perform all activity components independently: physically able to perform all components with or without the aid of adaptive equipment.	Independent - No physical assistance, setup, or supervision in any episode	Independent
1	Independent, setup help only - Article or device provided or placed within reach, no physical assistance or supervision in any episode	Requires cueing, reminders or supervision.	Independent, setup help only - Article or device provided or placed within reach, no physical assistance or supervision in any episode	Requires intermittent supervision or reminders.
2	Supervision - Oversight / cueing / monitoring / redirection	Requires assistance of another PERSON for some components; requires assistance of another person at some times (at least once a day)	Supervision - Oversight / cueing / monitoring / redirection	Requires constant supervision
3	Limited assistance - Guided maneuvering of limbs, physical	Requires physical assistance of another person to perform ALL components	Limited assistance - Guided maneuvering of limbs, physical	Requires physical assistance but is able to participate
4	Extensive assistance - Weight-bearing support (including lifting limbs) by 1 helper where person still performs 50% or more of subtasks	Unable to physically or cognitively participate; requires assistance of two persons	Extensive assistance - Weight-bearing support (including lifting limbs) by 1 helper where child /youth still performs 50% or more of subtasks	Requires total assistance of another. Child is physically unable to participate.
5	Maximal assistance - Weight-bearing support	N/A	Maximal assistance - Weight-bearing support	N/A

ADL Scoring Comparison				
Score	interRAI-HC	NE Adult ADL Functional Scoring	interRAI PEDS-HC	NE Child ADL Functional Scoring*
	(including lifting limbs) by 2+ helpers - OR - weight-bearing support for more than 50% of subtasks		(including lifting limbs) by 2+ helpers - OR - weight-bearing support for more than 50% of subtasks	
6	Total dependence - Full performance by others during all episodes	N/A	Total dependence - Full performance by others during all episodes	N/A
8	Activity did not occur during entire period	N/A	Activity did not occur during entire period	N/A

**May vary slightly by ADL*

Please note, **Optumas** recommends that a score of “8: Activity did not occur during entire period” on the interRAI-HC tool not be considered for use in establishing limitations in ADLs.