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| Provider: |  |
| Surveyor: |  |
| On-site review dates: |  |

| **Title 404 NAC #** | **Regulation:** | **Regulation met or not met?** | | | **Evidence** |
| --- | --- | --- | --- | --- | --- |
|  | | **Yes** | **No** | **N/A** | **If no, describe how the regulation was not met (cite specific documents, etc.):** |
| **1-003** | **ALTERNATIVE COMPLIANCE PROCEDURE:** *(Has the provider been granted alternative compliance for any regulations? If so, verify the “expiration” date of that correspondence, as they are usually time limited.)* |  |  |  |  |
| **4-001.03** | **CERTIFICATION RENEWAL:** must be Submitted at least 90 calendar days prior to expiration of the current certification. (*See regulation for complete requirements.)* |  |  |  |  |
| **4-002.02** | **DIRECTOR**: Each provider must have a director who is responsible for overall management and compliance of the requirements in this Title, establish policies and procedures as specified in this chapter, and ensure compliance with applicable laws and regulations. *(It is helpful to complete the entire administrative review and individual sample review prior to measuring compliance for this regulation.)* |  |  |  |  |
| **4-002.03** | **PROVIDER POLICIES AND PROCEDURES**. The provider must establish and implement written policies and procedures that:  (1) Describe the provider’s operation and how systems are set up to meet participants’ needs;  (2) Comply with all applicable regulations and laws governing providers;  (3) Are available to staff; and  (4) Are reviewed at least annually and revised if needed. |  |  |  |  |
| **4-002.05** | **RIGHTS REVIEW COMMITTEE**. The provider must establish a rights review committee to review any situation requiring an emergency safety intervention, the use of certain psychotropic medications, any restrictive measure, and any situation where violation of a participant’s rights occurred.  **002.05(A) MEMBERSHIP OF THE RIGHTS REVIEW COMMITTEE**. The provider must appoint members of the committee that: (i) Are free from conflict of interest; and (ii) Will ensure the confidentiality of information related to participants served. At least half of the committee members must be participants, family, or other interested persons who are not provider staff.  **002.05(B) RECUSAL OF RIGHTS REVIEW COMMITTEE MEMBER**. If the person responsible for approving the participant’s program or any staff who provides direct services serves as a member of a rights review committee, he or she must recuse him or herself from participation in rights review committee proceedings pertaining to such participant.  **002.05(C) MEETINGS**. The committee must meet, at a minimum, semi-annually. The review may include obtaining additional information and gathering input from the affected participant and his or her legal representative, if applicable, to make recommendations to the provider.  **002.05(D) SUB-COMMITTEES**. The rights review committee may utilize sub-committees to complete its work. The sub-committee must document its activities and submit that documentation to the rights review committee, as evidenced in the rights review committee’s meeting minutes.  **4 002.05(E) INTERIM APPROVAL OF RESTRICTIVE MEASURES**. Interim approvals of restrictive measures are allowed in circumstances that require immediate attention. The interim approval may be done by a documented designee of the rights review committee, who must be a current member of the rights review committee and can be an employee of the certified provider, but must be free from conflict of interest. The meeting minutes must document final approval by the rights review committee at its next meeting.  **002.05(F) ALLEGATIONS OF ABUSE OR NEGLECT**. The rights review committee must evaluate all known allegations and investigations of abuse or neglect for any violation of a participant’s rights. |  |  |  |  |
| **4-003.03 was removed from 404 in the 11.19.22 revision but the requirements remain under statute, cite under**  001. CERTIFICATION OF PROVIDERS. All agency providers of services under the  Developmental Disabilities Services Act **must meet the certification and accreditation**  **requirements established** by the Department of Health and Human Services.  001.01(D) DENIAL OF CERTIFICATION. The Department, in its discretion, may deny or  terminate a provider’s certification for good cause, which includes but is not limited to the  following grounds: (1) Violations of any of the provisions of Nebraska Administrative Code (NAC) Titles 172, 403, 404, 471, 480, 482 or **other applicable law or regulation governing services provided;** | Neb. Rev. Stat. §§ 83-1217  Department; contract for specialized services; certification and accreditation requirements; assisted services; method of reimbursement.  *The department shall contract for specialized services and shall only contract with specialized programs which meet certification and accreditation requirements…. In order to be certified, each specialized program shall:*  *(1) Have an internal quality assurance process;*  *(2) Have a program evaluation component;*  *(3) Have a complaint mechanism for persons with developmental disabilities and their families;*  *(4) Have a process to ensure direct and open communication with the department;*  *(5) Develop, implement, and regularly evaluate a plan to ensure retention of quality employees and prevent staff turnover;*  *(6) Have measures to enhance staff training and development;*  ***(7) Be governed by a local governing board or have an advisory committee, the membership of which consists of (a) persons with developmental disabilities, (b) family members or legal guardians of persons with developmental disabilities, and (c) persons who are interested community members;***  *(8) Meet accreditation standards developed by the department;*  *(9) Require a criminal history record information check of all employees hired on or after September 13, 1997, who work directly with clients receiving services and who are not licensed or certified as members of their profession; and*  *(10) Meet any other certification requirements developed by the department to further the purposes of the Developmental Disabilities Services Act.* |  |  |  |  |
| **4-002.11** | **INCIDENT REPORTING.** The provider must report incidents using the electronic system approved and used by the Department. The provider must implement a system for handling and reporting incidents that includes: (A) Identification of incidents that require completion of an incident report to the Department that includes: (i) Situations that adversely affect the physical or emotional well-being of a participant served; (ii) Alleged or suspected cases of abuse, neglect, exploitation, or mistreatment; and (iii) Emergency safety situations that require the use of emergency safety interventions; (B) Recording the essential facts of the incident, including the results of the incident and any actions which might have prevented the incident; (C) An action plan that includes the provider’s immediate effort to address the situation and prevent recurrence; (D) Timelines to ensure prompt reporting of incidents as appropriate, including reporting to: (i) Provider management; (ii) The individual who receives services involved in the incident; (iii) Family member or legal representative as appropriate; (iv) Child and Adult Abuse and Neglect in the Department; and (v) Law enforcement; (E) Reporting requirements including: (i) A verbal report to the Department upon becoming aware of the incident; (ii) A written report using the Department approved format within 24 hours of the verbal report; (iii) A written summary submitted to the Department of the provider’s investigation and action taken within 14 calendar days; and (iv) An aggregate report of incidents must be submitted to the Department on a quarterly basis. Each report must be received by the Department no later than 30 calendar days after the last day of the previous quarter. The reports must include a compilation, analysis, and interpretation of data, and include evidentiary examples to evaluate performance that result in a reduction in the number of incidents over time; and (F) A process to review and analyze information from incident reports to identify trends and problematic practices which may be occurring and take appropriate corrective actions to address problematic practices identified. |  |  |  | *Effective May 2022, DD is providing the* ***aggregate reports*** *to providers including recommendations for action and monitoring/follow up for action.* |
| **4-004** | **QUALITY ASSURANCE AND QUALITY IMPROVEMENT (QA/QI).** The provider must have a quality assurance and quality improvement (QA/QI) process. This process must include:  (1) Ongoing proactive internal review of the quality and individualization of services;  (2) Continuous quality review of the services provided; and  (3) The provider must provide evidence that participants served and their families are involved in the quality assurance and quality improvement (QA/QI) process. |  |  |  |  |
| **4-04.01** | **QUALITY ASSURANCE AND QUALITY IMPROVEMENT (QA/QI) STRUCTURAL COMPONENTS.** The provider must create the structural components of the quality assurance and quality improvement (QA/QI) process. The process must be applied on a provider-wide basis and include:  (A) Areas of services to be monitored and evaluated to determine the quality of these services through identification of patterns and trends of the provider services; and  (B) Provisions for reviewing quality assurance and quality improvement (QA/QI) policies and procedures at least annually and revising as needed. |  |  |  |  |
| **4-004.02** | **QUALITY ASSURANCE AND QUALITY IMPROVEMENT (QA/QI) ACTIVITIES.** The quality assurance and quality improvement (QA/QI) activities must result in:   1. Identification and correction of problems and noncompliance with applicable requirements in a timely manner and on a provider-wide basis; and   (B) Use of information from reviews, results, and recommendations to correct problems, improve services to participants served, and revise policies and procedures, if necessary. |  |  |  |  |
| **4-004.03** | **DOCUMENTATION OF QUALITY ASSURANCE AND QUALITY IMPROVEMENT (QA/QI) ACTIVITIES.** The provider must maintain documentation of all quality assurance and quality improvement (QA/QI) activities, including the results of reviews, recommendations, action taken, effectiveness of action taken, review by the director and certified provider, and other relevant information. |  |  |  |  |
| **5-001.11** | **DISASTER PREPAREDNESS AND MANAGEMENT**. The provider must establish and implement disaster preparedness plans and procedures to ensure that participants’ care, safety, and well-being are provided and maintained during and following instances of natural or other disasters, disease outbreaks, or other similar situations. These plans and procedures must address and delineate:  (A) How the provider will maintain the proper identification of each participant to ensure that care coincides with the participant’s needs; (B) How the provider will move participants to points of safety or provide other means of protection when all or part of the building is damaged or uninhabitable due to natural or other disaster;  (C) How the provider will protect participants during the threat of exposure to the ingestion, absorption, or inhalation of hazardous substances or materials;  (D) How the provider will provide food, water, medicine, medical supplies, and other necessary items for care in the event of a natural or other disaster; and  (E) How the provider will provide for the comfort, safety, and well-being of participants served in the event of 24 or more consecutive hours of:  (i) Electrical or gas outage;  (ii) Heating, cooling, or sewer system failure |  |  |  |  |
| **5-003** | **COMPLAINTS AND GRIEVANCES**. The provider must promptly address complaints and grievances filed with the provider on behalf of participants served. The provider’s process to address complaints and grievances must:  (A) Be made available to participants, legal representatives, staff, and other representatives. Utilization of the provider’s process is voluntary and is not meant to deny or delay a participant’s right to file a complaint elsewhere or to access the legal system;  (B) Be convenient to the participant;  (C) Include time frames and procedures for review of complaints and grievances and the provision of a response;  (D) Be reviewed by the provider with the participant and his or her legal representative, where applicable; and  (E) Include the right to access the court system. The provider must maintain documentation of the receipt of all complaints and grievances, the resolution, and the response to the complainant.  *(It is helpful to review the provider’s policies and procedures for this area to measure compliance, as there may not be situations permitting a surveyor to review implementation; however, it is important to ensure there are policies and procedures in place to implement should an event occur.* |  |  |  |  |
| **5-004** | **ABUSE AND NEGLECT**. The provider must develop and implement a system to detect and prevent abuse or neglect and to handle allegations or suspicions of abuse, neglect, or exploitation. The provider must:  (A) Establish a definition of abuse or neglect that is consistent with these regulations;  (B) Establish a process and timelines for prompt and accurate reporting of allegations or suspicions of abuse or neglect to appropriate outside authorities that is in accordance with applicable law;  (C) Have measures and timelines for reporting of allegations or suspicions of abuse or neglect to appropriate provider administrative staff; the legal representative, if appropriate; and the service coordinator;  (D) Conduct a timely, thorough, and objective investigation of all allegations or suspicions of abuse or neglect, including protection of participants during the investigation;  (E) Establish a process for disciplinary action taken when staff are found to have engaged in abusive or neglectful behavior; and  (F) Take appropriate corrective or disciplinary action in response to the investigation. As part of this action, the provider must: (i) Complete a review, by the director of the entity or designee, of all allegations or suspicions, and investigations and make decisions on the action to be taken; (ii) Identify the means to lessen the likelihood of further incidents if the allegation or suspicion is substantiated; and (iii) Document the allegation or suspicion, investigation, conclusion, action taken, and means to prevent further incidents.  *(Complete a review of the 3 most recent abuse/neglect allegations this provider has received. Use the form titled “Abuse and neglect cert review form“)* |  |  |  |  |
| **6-005 (formerly 11-005)** | **COMPLIANCE AUDITS**. All providers must permit the Department, the U.S. Department of Health and Human Services, and any other duly authorized agent or governmental agency to perform audits or inspections, or both, of its records.  005.01 The provider must retain all financial records, supporting documents, statistical records, and all other records as directed by the Department. The provider must retain such records in a format acceptable to the Department.  005.02 The provider may be required to prepare and submit a plan to the Department to address audit findings.  005.03 The certified provider may establish a fiscal year for accounting purposes, but if the provider does not establish a fiscal year the Department will presume the provider’s fiscal year is July 1 through June 30 for purposes of enforcing the requirements of this chapter  005.04 Failure to comply with the requirements imposed upon certified providers in this chapter may result in reduction in or reimbursement of funds, or disciplinary action or termination of certification as provided for in 404 NAC 4, or other applicable law or regulation. |  |  |  | [J:\DDD\1.5 Central Office.Contracts\Electronic GSC Audits\](file:///J:/DDD/1.5%20Central%20Office.Contracts/Electronic%20GSC%20Audits/Provider%20list%20-%20404%20Audits.xlsx)SFY2021 Provider 404 Audit Tracking  Reference Provider Bulletin 20-03 (issued 2.27.2020, effective 7.1.2020) for additional information.  Do not collect records of compliance that would include employee information such as SS#s, home address, etc. If you examine evidence of compliance, check “yes” and make a brief comment about the documents examined. |
| **~~11-002~~** | **~~11-002 SUBCONTRACTS:~~** ~~Only agencies and programs certified by the Department may enter into subcontracts for specialized services.~~ |  |  | **X** | Repealed in November 2022 revision |