

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES  
NOTICE OF PUBLIC HEARING

July 17, 2023  
10:00 a.m. Central Time  
Nebraska State Office Building – Lower Level  
Meadowlark Conference Room  
301 Centennial Mall South, Lincoln, Nebraska

The purpose of this hearing is to receive comments on the amendments to and adoption of the following regulations:

The following chapters are proposed for AMENDMENT:

Title 403 NAC 1 – *Administration and Definitions*

The proposed changes incorporate the Family Support Waiver; update definitions; correct punctuation; update formatting; and renumber the regulatory chapter.

Title 403 NAC 2 – *Application, Eligibility, Funding, Waitlist, and Appeals*

The proposed changes update the chapter name; add clarification language; update and add section headings; incorporate the Family Support Waiver; update requirements for placement registry; set requirements for exception funding; update formatting; and renumber the regulatory chapter.

Title 403 NAC 3 – *Participant Self-Direction*

The proposed changes update waiver services and self-direction responsibilities; update formatting; and renumber the regulatory chapter.

Title 403 NAC 4 – *Developmental Disabilities Day Services Waiver For Adults*

The proposed changes update terminology; remove duplicative language; update waiver services; add clarification language; update provider requirements; set requirements for community integration; set criteria for independent living and supported family living; update requirements for supported employment; update and add section headings; correct punctuation and typographical errors; and renumber the regulatory chapter.

Title 403 NAC 5 – *Comprehensive Developmental Disabilities Services*

The proposed changes update terminology; add clarification language; remove duplicative language; update provider requirements; clarify adult day services; specify requirements for behavioral in-home habilitation requirements; set requirements for child day habilitation; establish day support requirements; set criteria for independent living and supported family living; update requirements for supported employment; set requirements

for therapeutic residential habilitation; update and add section headings; correct punctuation and typographical errors; and renumber the regulatory chapter.

The following chapter is proposed for ADOPTION:

Title 403 NAC 6 – *Family Support Waiver*

The proposed adoption of this chapter sets requirements for the Family Support Waiver; sets service types and service descriptions; sets the required level of care; establishes funding guidelines; specifies provider standards; and incorporates application guidelines.

Authority for these regulations is found in Neb. Rev. Stat. § 81-3117(7).

Interested persons may attend the hearing and provide verbal or written comments, or mail, fax, or email written comments, no later than the day of the hearing to: DHHS Legal Services, PO Box 95026, Lincoln, NE 68509-5026, (402) 742-2382 (fax) or [dhhs.regulations@nebraska.gov](mailto:dhhs.regulations@nebraska.gov), respectively.

A copy of the proposed changes is available online at <http://www.sos.ne.gov>, or by contacting DHHS at the mailing address or email above, or by phone at (402) 471-8417. The fiscal impact statement for these proposed changes may be obtained at the office of the Secretary of State, Regulations Division, 1201 N Street, Suite 120, Lincoln, NE 68508, or by calling (402) 471-2385.

Auxiliary aids or reasonable accommodations needed to participate in a hearing can be requested by calling (402) 471-8417. Individuals who are deaf or hard of hearing may call DHHS via the Nebraska Relay System at 711 or (800) 833-7352 TDD at least 2 weeks prior to the hearing.

## FISCAL IMPACT STATEMENT

Agency: Department of Health and Human Services	
Title: 403	Prepared by: Miranda Newton
Chapter: 1-5 Amend, 6 Adopt	Date prepared: 5/4/2023
Subject: Developmental Disabilities Services	Telephone:402-471-8037

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	( <input checked="" type="checkbox"/> )	( <input checked="" type="checkbox"/> )	( <input checked="" type="checkbox"/> )
Increased Costs	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Decreased Costs	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Increased Revenue	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Decreased Revenue	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Indeterminable	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )

Provide an Estimated Cost & Description of Impact:

State Agency: **No Fiscal Impact.**

Political Subdivision: **No Fiscal Impact.**

Regulated Public: **No Fiscal Impact.**

If indeterminable, explain why:

DRAFT  
05-26-2023

NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

403 NAC 1

TITLE 403 MEDICAID HOME AND COMMUNITY-BASED WAIVER SERVICES  
(HCBS) FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

CHAPTER 1 ADMINISTRATION AND DEFINITIONS

001. PURPOSE. This Title regulates the services administered by the Department of Health and Human Services through the Medicaid Home and Community-Based Services (HCBS) Waivers for individuals with developmental disabilities.

002. AUTHORITY. The Nebraska Department of Health and Human Services (DHHS) is authorized to establish, administer, and implement these regulations pursuant to the following authority:

~~(A)002.01~~ Nebraska Medical Assistance Program (Nebraska Revised Statutes (Neb. Rev. Stat.) §§ 68-901 to 68-949);

~~(B)002.02~~ Title XIX of the Social Security Act, including Section 1915(c) of the Social Security Act (Medicaid Home and Community Based Services (HCBS) Waiver) (42 C.F.R. § 440.180 and Part 441, Subpart G); ~~and~~

~~(C)002.03~~ The Health and Human Services Act (Neb. Rev. Stat. §§ 81-3110 to 81-3124); ~~and~~

~~(D)002.04~~ Family Support Program (Neb. Rev. Stat. §§ 68-1529 to 68-1534).

003. DEFINITIONS. The following definitions apply to this Title:

003.01 ACTIVITIES OF DAILY LIVING (ADLs). Basic, personal everyday activities, such as eating, dressing, and bathing.

~~003.02 ADULT COMPANION SERVICE. A drop-in, habilitative service that includes adaptive skill development, non-medical care, supervision, socialization, assisting a participant in maintaining safety in the home, and enhancing independence in self-care and home living skills.~~

003.032 ADULT DAY SERVICE. A non-habilitative service consisting of meaningful day activities which take place in the community.

~~003.043 AGENCY CERTIFIED PROVIDER. An agency, organization, association, or other entity that the Department has certified as meeting certification and accreditation requirements under applicable state statutes and regulations.~~

003.053 APPLICANT. An individual seeking services through submission of an application.

003.064 APPLICATION DATE. The date on which the Department receives a completed application for services which contains all information necessary to determine eligibility.

003.075 ASSESSMENT. The process of evaluating and identifying the preferences, skills, and needs of a participant and what services, interventions, and supports would facilitate the health, safety, and welfare of that participant.

003.086 ASSISTIVE TECHNOLOGY. Equipment or a product system necessary for a participant's health, welfare, and safety, that is used to increase, maintain, or improve functional capabilities of a participant.

003.097 AUTHORIZED REPRESENTATIVE. A person authorized to represent the applicant or participant in any matter with the Department.

003.408 BEHAVIOR SUPPORT PLAN (BSP). A written strategy, based on person-centered planning and a Functional Behavioral Assessment (FBA), which contains specific instructions for a provider designed to reduce the frequency and intensity of challenging behaviors of a participant and to adjust environment and teach new skills.

003.4409 CENTER FOR THE DEVELOPMENTALLY DISABLED (CDD). A residential setting for individuals with developmental disabilities in which services are provided for a period of more than twenty-four consecutive hours to four or more individuals.

003.10 CERTIFIED PROVIDER. An agency, organization, association, or other entity that the Department has certified as meeting certification and accreditation requirements under applicable state statutes and regulations.

~~003.12 CHEMICAL RESTRAINT.~~ ~~A drug or medication used for discipline or convenience and not required to treat medical symptoms.~~

003.131 COMMUNITY INTEGRATION INCLUSION. The opportunity for an individual with a developmental disability to live and interact in community settings where individuals without disabilities are present and a habilitative service that offers training and staff supports for the acquisition, retention, or improvement in self-help; and behavioral, socialization, and adaptive skills that take place in the community in a non-residential setting, separate from the participant's private residence or other residential living arrangement; or any setting outlined and approved in the participant's Individual Support Plan (ISP).

003.124 COMPETITIVE INTEGRATED EMPLOYMENT. Competitive integrated employment Being gainfully employed in a job that takes place in an integrated community setting where the participant receives a competitive wage for his or her job. Work is performed on a full-time or part-time basis (including self-employment) in accordance with 34 C.F.R. § 361.5 (9).

003.135 CONSULTATIVE ASSESSMENT SERVICE. The development, modification, evaluation, or implementation of a behavior support plan to assist in maintaining the living environment of a participant.

~~003.16 CRISIS INTERVENTION SUPPORT.~~ ~~An immediate, intensive, and short-term habilitative service designed to address the temporary increased or severe occurrences of behaviors of a participant.~~

003.147 CUSTOMIZED EMPLOYMENT. Competitive integrated employment for an individual with a significant disability in accordance with 34 C.F.R. § 361.5 (11).

~~003.15~~ ~~DAY SUPPORT.~~ ~~Regularly scheduled activities that take place in a provider-operated or controlled non-residential setting, separate from the participant's private residence or other residential living arrangement. This service includes the provision of personal care, health maintenance, and supervision.~~

~~003.16~~ ~~ELECTRONIC VISIT VERIFICATION (EVV).~~ ~~A tracking system that requires electronic verification of when a person receives Medicaid-funded personal care or home health services.~~

003.178 ELIGIBILITY DETERMINATION. The assessment of an individual to determine eligibility for Waiver services.

003.189 ELIGIBILITY REDETERMINATION. The assessment of an individual to determine continued eligibility for Waiver services.

~~003.19~~ ~~EMERGENCY SAFETY INTERVENTION (ESI).~~ ~~When a provider must physically intervene to prevent or reduce the risk of serious harm to the participant or others.~~

003.20 ENVIRONMENTAL MODIFICATION ASSESSMENT. A functional evaluation conducted with a participant to determine whether environmental modifications or assistive technology are necessary to enable the participant to integrate more fully into the community; provide greater access to the participant's home or ensure the health, welfare, and safety of the participant.

003.21 FUNDING. The money used to pay for a participant's Waiver services.

003.22 HABILITATION. The assisting of an individual with improving and achieving developmental skills when impairments have caused delaying or blocking of initial acquisition of the skills.

~~003.23~~ ~~HABILITATIVE COMMUNITY INCLUSION.~~ ~~A habilitative service that offers training and staff supports for the acquisition, retention, or improvement in self-help; and behavioral, socialization, and adaptive skills that take place in the community in a non-residential setting, separate from the participant's private residence or other residential living arrangement; or any setting outlined and approved in the participant's Individual Support Plan.~~

~~003.24~~ ~~HABILITATIVE WORKSHOP.~~ ~~Regularly scheduled activities that take place in a provider operated or controlled non-residential setting, separate from the participant's private residence or other residential living arrangement. This service includes the provision of personal care, health maintenance, and supervision.~~

003.235 HEALTH AND SAFETY PLAN. A written strategy that outlines supports for a participant's specific health and safety needs, based on person-centered planning and the individual's health risk factors.

003.246 HOMEMAKER SERVICE. The performance of general household activities, such as meal preparation, laundry services, errands, and routine household care. This service does not include direct care or supervision of the participant.

003.257 HOME MODIFICATIONS. Physical alterations to a participant's residence that are necessary to ensure the health, welfare, and safety of the participant or enable the participant to function with greater independence.

~~003.28~~ ~~HOSPITAL SUPPORT~~. ~~Non-habilitative individually tailored, short-term supports that are available only during a participant's in-patient, acute care hospitalization to ensure the optimal functioning and safety of the participant.~~

~~003.29~~ ~~IN-HOME RESIDENTIAL HABILITATION~~. ~~A habilitative service that provides individually tailored supports that assist with the acquisition, retention, or improvement in skills related to living in the community in the most integrated setting appropriate to a participant's needs, including personal care, protective oversight, and supervision.~~

003.2630 INDEPENDENT PROVIDER. ~~An Independent Provider is a~~ A provider who has not been certified by the Department as a Certified ~~an~~ Agency Provider.

003.2734 INDIVIDUAL BUDGET AMOUNT (IBA). The amount of funds authorized to fund a participant's Individual Support Plan, based on the participant's assessed needs.

003.2832 INDIVIDUAL EDUCATION PROGRAM (IEP). A written plan of instructional goals and objectives developed by a team including the student, parent or legal representative, and representatives of the school district, administered through the school district.

003.2933 INDIVIDUAL FAMILY MEETING (IFM). A meeting, with the participant's Individual Support Planning team at which the participant is informed of the program services that are available, the first of which occurs prior to the initial Individual Support Plan development, and annually thereafter. The team consists of the participant, the participant's legal guardian, Service Coordination staff, service providers, other professionals, and anyone the participant invites to participate.

003.304 INDIVIDUAL SUPPORT PLAN (ISP). A document which identifies the supports, activities, and resources required for a participant to achieve and maintain personal goals and health and safety.

003.315 INSTITUTION. A residential facility within Nebraska that assumes total care of individuals admitted. These facilities include, but are not limited to, in-patient hospitals, nursing facilities, Intermediate Care Facilities for Individuals with Developmental Disabilities (ICF/DD), and Institutions for Mental Disease.

003.326 INTEGRATION. The full participation of all people in their community life which encompasses the self-determination, independence, empowerment, and inclusion of children and adults with disabilities in all parts of society.

003.337 INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES (ICF/IID) DEVELOPMENTAL DISABILITIES (ICF/DD). An institution that:

- (A1) Is primarily for the diagnosis, treatment, or rehabilitation of the intellectually disabled or individuals with related conditions; and
- (B2) Provides, in a protected residential setting, ongoing evaluation, planning, 24-hour supervision, coordination, and integration of health or rehabilitative services to help each individual function at the individual's greatest ability.

003.348 INVENTORY FOR CLIENT AND AGENCY PLANNING (ICAP). An adaptive and behavioral assessment instrument that measures physical, cognitive, and emotional functioning, designed to assist in determining the type and amount of assistance needed for applicants and participants.

003.359 LEGALLY RESPONSIBLE ADULT. A person who has a legal obligation under the provision of state law to care for another individual. The parent (natural or adoptive) of a minor child, a spouse, or legal guardian of a participant.

003.3640 MECHANICAL RESTRAINT. Any device, material, object, or equipment attached or adjacent to a participant's body that restricts freedom of movement or normal access to the body. Mechanical restraint is not:

- (A1) The use of acceptable child safety products;
- (B2) The use of car safety systems; or
- (C3) Safeguarding equipment, when ordered by a physician or health care provider and approved by the Individual Support Planning Team.

003.3744 NATURAL SUPPORTS. Non-paid, personal associations and relationships, typically developed in the community that enhance a participant's quality and security of life, including, but not limited to, family relationships; friendships; and associations developed ~~though~~ through employment; participation in clubs, organizations, and other community activities.

003.3842 NOTICE OF DECISION (NOD). A written notice advising an applicant or participant of a decision made by the Department.

003.3943 OBJECTIVE ASSESSMENT PROCESS (OAP). The process used by the Department to determine the amount of funding for any participant receiving services, which includes the Inventory for Client and Agency Planning (ICAP) and other assessments.

003.404 PARTICIPANT. An individual receiving Waiver program services and supports.

003.41 PERSON-CENTERED PLANNING. The process used to develop a meaningful Individual Support Plan (ISP).

003.425 PERSONAL EMERGENCY RESPONSE SYSTEM (PERS). An electronic device that enables a participant to secure help in an emergency.



003.4346 PHYSICAL RESTRAINT. Any physical hold that restricts, or is meant to restrict, the movement or normal functioning of a participant.

003.447 PREVOCATIONAL SERVICE. Prevocational service is a habilitative service that provides learning and work experiences, including career planning, and job searching, designed to enable a participant to develop general, non-job-task-specific strengths and skills that contribute to future employability in paid employment in integrated community settings.

003.458 PROGRAM. The services and supports a participant receives through the Medicaid Home and Community-Based Services Developmental Disabilities Adult Day Services Waiver or the Comprehensive Developmental Disabilities Services Waiver.

003.469 PUBLIC TRANSIT SYSTEM. Federally and state-subsidized transportation, in which regular, continuing shared-ride surface transportation services ~~that~~ are open to the general public or open to a segment of the general public defined by age, disability, or low income.

003.4750 REPRESENTATIVE. A person authorized to act on behalf of a participant.

003.4854 RESERVED CAPACITY. A portion of the participant capacity of a Waiver program allocated for specified purposes.

003.4952 RESIDENTIAL HABILITATION. ~~Residential habilitation is a~~ Δ habilitative service that provides individually tailored supports that assist with the acquisition, retention, or improvement in skills related to living in the community in the most integrated setting appropriate to a participant's needs, including personal care, protective oversight, and supervision. Residential Habilitation is provided in a residence that is owned, operated, or controlled by the provider.

003.503 RESPIRE. A non-habilitative service provided on a short-term, temporary basis as relief for the usual unpaid caregiver(s) living in the same private residence as the participant.

003.514 SERVICE COORDINATION. Medicaid targeted case management services provided by Department staff to assist a participant in facilitating services and supports for which he or she qualifies.

003.525 SLOT. A waiver opening set aside for individuals who will be admitted to the waiver on a priority basis for the purpose(s) specified in the Waiver applications, and subject to funding availability.

003.536 SUPPORTED EMPLOYMENT. Employment in integrated work settings in which individuals are working toward competitive work, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals.

~~003.56(A) ENCLAVE. Supported Employment—Enclave is a habilitative service in which the provider employs participants in regular business and industry settings.~~

003.536(BA) FOLLOW ALONG. ~~Supported Employment — Follow Along is A~~an individualized habilitative service that enables a participant to maintain employment in an integrated community employment setting. This employment is paid at or above the applicable minimum wage. This service is provided for, or on behalf of, a participant through intermittent and occasional job support and communicating with the participant's employer.

003.536(GB) INDIVIDUAL. ~~Supported Employment — Individual is A~~an individualized habilitative service designed to help a participant obtain and maintain competitive or customized employment, or self-employment, in an integrated work setting.

003.53(C) SMALL GROUP VOCATIONAL SUPPORT. ~~A habilitative service in which the provider employs participants in regular business and industry settings.~~

003.547 TIER. The organization of funding to reflect the staff intensity ratio at which services are to be provided and their associated costs. The tier for a participant's service is determined by the Objective Assessment Process (OAP).

003.558 TRANSITIONAL SERVICES. Essential, non-recurring basic household set-up expenses needed for participants transitioning from an institution to a private residence that remove identified risks or barriers to a successful transition.

003.569 TRANSPORTATION SERVICE. A ride and assistance to and from the home and parking lot to enable participants to access non-medical program services, and community activities and resources.

003.57 UNPAID CAREGIVER. ~~Any person, family member, neighbor, friend, companion, or co-worker who provides uncompensated care, training, guidance, companionship, or support to a person served on the Waiver.~~

003.5860 VEHICLE MODIFICATIONS. Alterations to a motor vehicle that is the participant's primary means of transportation in order to accommodate the special needs of the participant.

003.59 VIRTUAL SUPPORT. ~~A provision of direct supports by a provider at a different location from the participant that engages the participant through electronic devices capable of live, real-time audio and video connection.~~

003.604 WEEK. A calendar week beginning 12:00 AM Monday through 11:59 PM of the following Sunday.

TITLE 403 MEDICAID HOME AND COMMUNITY-BASED WAIVER SERVICES  
(HCBS) FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

CHAPTER 2 APPLICATION, ELIGIBILITY, FUNDING, ~~WAITLIST~~ REGISTRY, AND  
APPEALS

001. ELIGIBILITY REQUIREMENTS. In order to be eligible for Medicaid Home and Community-Based Waiver Services for individuals with developmental disabilities, an individual must:

- ~~(A1)~~ Be eligible for Medicaid benefits;
- ~~(B2)~~ Be at least age 21 for the ~~a~~Adult ~~d~~Day ~~w~~Waiver;
- ~~(C3)~~ Have a developmental disability as defined in the Developmental Disabilities Services Act; and
- ~~(D4)~~ Require the level of services provided by an ~~Intermediate Care Facility for Persons with Developmental Disabilities (ICF/DD)~~ Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) initially and annually thereafter.

002. ACCESS. In order to receive services, an individual eligible for services must:

- ~~(A1)~~ Submit a valid application for services;
- ~~(B2)~~ Choose, in writing, to receive Medicaid Home and Community-Based Waiver services instead of institutional placement;
- ~~(C3)~~ Have a physical health screen within the past 12 months and annually thereafter; and
- ~~(D4)~~ Agree to receive Service Coordination services.

003. APPLICATION. In order for an application to be valid, it must include:

- ~~(A1)~~ The name and mailing address of the applicant;
- ~~(B2)~~ The signature of the applicant, guardian, legally responsible individual, or parent; and
- ~~(C3)~~ Any documentation including, but not limited to, educational or medical records or reports requested by the Department necessary to determine eligibility.

003.01 APPLICATION SUBMITTAL. An application may be submitted in person, ~~or~~ by mail, fax, ~~or~~ email, or by applying online.

003.02 ASSISTANCE WITH APPLICATION. The Department shall provide an applicant general help with the application process, upon request, in a manner that is accessible to individuals with disabilities or limited English proficiency.

003.03 AMENDMENT TO APPLICATION. An applicant may amend information in an application at any time prior to the date of decision.

003.04 PROMPT ACTION. The Department shall send the applicant a written notification of the decision on an application within 60 days from the date a valid application is received.

003.05 WITHDRAWAL. An applicant may voluntarily withdraw an application.

003.06 WRITTEN NOTIFICATION. The Department will provide timely notice of all decisions. The Notice of Decision ~~is~~ shall be dated and mailed at least ten calendar days before the date an adverse action becomes effective. A written notification shall contain:

- (A) The name of participant;
- (B) The decision being made;
- (C) The ~~effective~~ effective date of decision;
- (D) An explanation of the decision; and
- (E) An ~~advisement~~ explanation of the participant's due process rights.

004. DEVELOPMENTAL DISABILITY REDETERMINATION. A redetermination of an individual's eligibility will occur when:

- ~~(A1)~~ Good cause exists; ~~or~~
- ~~(B2)~~ The individual reaches the age of 9 years ~~and 18 years of age;~~ or
- ~~(C)~~ The individual reaches the age of 18 years.

005. LEVEL OF CARE DETERMINATION.

005.01 INITIAL. Prior to receiving services under this Title, an individual must be determined by the Department to meet ~~the Intermediate Care Facility for Persons with Developmental Disabilities (ICF/DD)~~ Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) Level of Care.

005.02 REDETERMINATION. To remain eligible for services, an individual's status must be reviewed and ~~the Intermediate Care Facility for Persons with Developmental Disabilities (ICF/DD)~~ Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) Level of Care determined:

- (A) Within 12 months ~~from~~ of the previous level of care determination;
- (B) No earlier than 60 days prior to the implementation of a renewed Individual Support Plan; and
- (C) ~~At A~~ any time there is a significant change in a condition affecting an individual's level of care.

006. WAIVER SLOTS.

006.01 PRIORITY. Priority funding for the Medicaid Home and Community-Based Services waivers.

006.01(A) COMPREHENSIVE DEVELOPMENTAL DISABILITIES (CDD) AND THE DEVELOPMENTAL DISABILITIES ADULT DAY (DDAD) WAIVERS. Applicants shall be prioritized as set forth in Neb. Rev. Stat. § 83-1216.

006.01(B) FAMILY SUPPORT WAIVER (FSW). Applicants shall be prioritized as set forth in Neb. Rev. Stat. § 68-1532.

007. WAITLIST REGISTRY.

007.01 PLACEMENT ON REGISTRY. ~~All persons who meet eligibility criteria as defined in Neb. Rev. Stat. § 83-1205 will be assessed for Medicaid Home and Community-Based Services (HCBS) Waiver level of care and, if found to require the level of care of an intermediate care facility for individuals with intellectual disabilities (ICF/IID), will be placed on the statewide data registry. This statewide data registry is for all individuals who have been determined eligible for services on any of Nebraska's developmental disabilities waivers. The date used to establish a person's placement on the statewide data registry is the date of application from which eligibility for developmental disabilities in Nebraska was originally established.~~ The Department will maintain the list of applicants who have been deemed eligible for services and are waiting for a slot on a ~~W~~waiver.

007.02 REMOVAL FROM REGISTRY. An individual who has been determined eligible will no longer be considered for waiver services ~~and will be removed from the statewide data registry~~ if the individual:

- (A) Is no longer eligible for Medicaid ~~or no longer meets eligibility criteria as defined at Neb.Rev.Stat. § 83-1205;~~
- (B) No longer meets ~~the level of care of an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) Intermediate Care Facility for Persons with Developmental Disabilities (ICF/DD) Level of Care~~ or fails to cooperate with ~~the individual's~~ annual ICF/IDD Level of Care determination;
- (C) Notifies the Department, in writing, that waiver services are no longer desired; or
- (D) ~~Is Declines an offered the for the~~ Comprehensive Developmental Disabilities Services Waiver. ~~and declines.~~

007.03 REMAINING ON REGISTRY. ~~An individual shall remain on the waitlist if the individual is offered a slot on the Developmental Disabilities Day Services Waiver for Adults but wishes to receive the to remain on the waitlist registry for the Comprehensive Developmental Disabilities Services Waiver. Persons who are served by the Family Support Waiver or the Developmental Disabilities Day Services Waiver for Adults will remain on the statewide data registry until a waiver slot has been assigned to them for the Comprehensive Developmental Disabilities Waiver.~~

## 008. FUNDING.

008.01 OBJECTIVE ASSESSMENT PROCESS (OAP). The funding for a participant is determined using the Objective Assessment Process (OAP) involving information from an assessment of the participant's physical, cognitive, and emotional functioning.

008.01(A) OBJECTIVE ASSESSMENT. The assessment must include a comprehensive assessment of the participant's:

- (i) ~~Functional abilities~~ Activities of daily living (ADL);
- (ii) ~~Maladaptive behaviors~~ Problematic Behaviors;
- (iii) ~~Living placement~~ Community Living; and
- (iv) Behavioral and health factors.

008.01(B) DATA. Scoring data from the assessment are entered into a formula to determine the funding amount for day services or residential services.

008.01(C) BUDGET. An individual budget amount is assigned for each participant based on each participant's assessed needs. Assessments are completed to determine individual budget amounts for participants.

008.02 EXCEPTION FUNDING ALTERNATIVE COMPLIANCE TO INDIVIDUAL BUDGET AMOUNT. ~~Alternative compliance to the individual budget amount may be requested when a participant's needs cannot be safely met with funding solely based on the assessment scoring data. When the Individual Support Plan (ISP) team identifies an individual's needs cannot be safely met through their Individual Budget Amount (IBA), the team can request additional funds with an exception. The amount of exception funding is for the cost of additional services to meet the participant's behavioral or medical needs. Exception funding is short-term. If increased needs are likely to be long-term, a new Inventory for Client and Agency Planning (ICAP) may be completed, instead of considering exception funding.~~

008.02(A) EXCEPTION REQUEST APPROVAL. ~~When an exception request is approved:~~

- ~~(i) The participant's Service Coordinator shall distribute the Request for Exception to the Individual Budget Amount (IBA) form, which includes an explanation of the decision and any recommendations made by the Division of Developmental Disabilities (DDD), to the Individual Support Plan (ISP) team. This includes the duration of the approval, the approved rate, and expectations for the provider;~~
- ~~(ii) The Division of Developmental Disabilities (DDD) shall send a notice of the decision to the participant; and~~
- ~~(iii) After the Division of Developmental Disabilities (DDD) makes the exception decision, the Individual Support Plan (ISP) team shall meet to discuss the decision and any recommendations.~~

008.02(B) EXCEPTION REQUEST DENIAL. ~~When an exception request is denied:~~

- ~~(i) The Service Coordinator shall provide the Individual Support Plan (ISP) team "A Request for Exception to the IBA" form, which includes an explanation of the decision and any recommendations made by Division of Developmental Disabilities (DDD);~~
- ~~(ii) The Division of Developmental Disabilities (DDD) shall send a notice of decision, with appeal information, to the participant; and~~
- ~~(iii) The ISP team shall meet to discuss the explanation of the decision and any recommendations made by the Division of Developmental Disabilities (DDD) clinical team.~~

~~(A) The participant must cooperate in providing any documentation requested during the alternative compliance process to include:~~

- ~~(i) Data for the last 90 days including, but not limited to, nursing plan, health plan, safety plan, Functional Behavioral Assessment, or overnight plan; and~~
- ~~(ii) Other clinical documentation that supports the need including, but not limited to, assessments from medical or behavioral health staff.~~

~~(B) Alternative compliance may be denied by the Department for the following reasons:~~

- ~~(i) The participant has not demonstrated a good faith attempt to meet his or her identified needs contained in the Individual Support Plan within the amount identified by the current Objective Assessment Process (OAP);~~
- ~~(ii) The participant failed to cooperate with the alternative compliance process;~~
- ~~(iii) The participant failed to establish an identified health and safety need supporting alternative compliance;~~
- ~~(iv) The participant did not provide documentation demonstrating a clinical rationale supporting alternative compliance; or~~
- ~~(v) In review of the totality of the circumstances, the participant's specific needs can be safely met under the funding determined by the Objective Assessment Process (OAP).~~

## 009. FAIR HEARING PROCESSES.

009.01 RIGHT TO APPEAL. An applicant or participant has the right to appeal the following actions and inactions:

- (A) The denial of an application;
- (B) The failure of the Department to act on an application with reasonable promptness;
- (C) A change in the amount or type of benefits or services;
- (D) A determination of the amount of medical expenses that must be incurred to establish eligibility;
- (E) A determination of the amount of premiums and cost sharing charges;
- (F) A determination that the level of services provided by an ~~Intermediate Care Facility for Persons with Developmental Disabilities (ICF/DD)~~ Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) is not required;
- (G) A determination that services are not required;
- (H) The form of payment or services is changed to be more restrictive; or
- (I) The denial of a claim for benefits or services.

009.02. AUTOMATIC CHANGES. An applicant or participant is not entitled to appeal when state or federal law requires automatic changes adversely affecting some or all classes of applicants or participants.

009.032 REQUEST A FAIR HEARING. An applicant or participant can appeal to the Director for a hearing on any action or inaction with regard to an application, the amount of the assistance payment or failure to act with reasonable promptness. An appeal must be filed in writing within 90 days of the action or inaction. If an appeal is submitted within 10 days of a Notice of Decision being mailed, it is assumed that the applicant or participant is requesting that any ongoing assistance that is the subject of the appeal will continue during the pendency of the appeal, unless the applicant or participant indicates a contrary intent.

TITLE 403 MEDICAID HOME AND COMMUNITY-BASED WAIVER SERVICES  
(HCBS) FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

CHAPTER 3 PARTICIPANT SELF-DIRECTION

001. SELF-DIRECTION. A participant may self-direct the following services:

- ~~1) Adult Companion Service~~
- (A2) Assistive Technology;
- (B) Child Day Habilitation;
- (C) Community Integration;
- ~~(D3) Consultative Assessment Service;~~
- (E4) Environmental Modification Assessment;
- ~~5) Habilitative Community Inclusion;~~
- (F6) Home Modification;
- (G7) Homemaker Service;
- (H) Independent Living;
- ~~8) In-Home Residential Habilitation;~~
- ~~9) Prevocational Services;~~
- (I40) Respite;
- (J44) Supported Employment – Follow Along;
- (K42) Supported Employment – Individual;
- (L) Supported Family Living;
- ~~(M43) Transitional Services;~~ and
- (N44) Transportation Services.

001.012 SELF-DIRECTION RESPONSIBILITIES. A participant who self-directs services must:

- (A) Be willing and able to accept increased responsibility for managing their Medicaid Home and Community Based Services (HCBS) Developmental Disabilities (DD) Waiver Services;
  - (B) Self-advocate;
  - (C) Actively direct the Individual Support Plan (ISP) planning process and communicate with their team when they need help with self-direction;
  - (D) Accept all employer responsibilities. This includes finding, interviewing, hiring, training, scheduling, supervising, monitoring, and dismissing Independent Providers; and
  - (E) Manage their use of the annual Individual Budget Amount (IBA), as outlined in the Individual Support Plan (ISP).
- ~~1) Participate in service planning meetings;~~
  - ~~2) Express wants, desires, and needs to the Individual Support Planning team, and to providers during service provision;~~
  - ~~3) Identify services to be self-directed;~~
  - ~~4) Interview, hire, train, schedule, supervise, and dismiss independent providers and participate in this process when using agency providers;~~
  - ~~5) Select qualified and eligible service providers;~~



- ~~6) Sign an appointment of the Department as agent form when using independent providers, permitting the Department to manage the employment taxes and applicable withholdings on behalf of the participant; and~~
- ~~7) Be able to manage providers and self-direct services in a manner necessary for the participant's health, safety or welfare.~~

TITLE 403 MEDICAID HOME AND COMMUNITY-BASED WAIVER SERVICES  
(HCBS) FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

CHAPTER 4 DEVELOPMENTAL DISABILITIES DAY SERVICES WAIVER FOR  
ADULTS

001. GENERAL INTRODUCTION. The Developmental Disabilities Adult Day Services Waiver is authorized under §1915(c) of the Social Security Act and permits the State to furnish eligible individuals with an array of habilitative and non-habilitative services in a community setting.

002. DEVELOPMENTAL DISABILITIES DAY SERVICES WAIVER FOR ADULTS. The following services may be provided under the Developmental Disabilities Adult Day Services Waiver:

002.01 HABILITATIVE SERVICES.

- (A) Community Integration;
- ~~(A) Adult Companion Service;~~
- (B) Consultative Assessment Service;
- (C) Day Support;
- ~~(C) Crisis Intervention Support;~~
- ~~(D) Habilitative Community Inclusion;~~
- (D) Independent Living;
- ~~(E) Habilitative Workshop;~~
- ~~(F) Prevocational Service;~~
- ~~(FG) Supported Employment – Enclave Small Group Vocational Support;~~
- ~~(HG) Supported Employment – Follow-Along; and~~
- ~~(H) Supported Employment – Individual; and~~
- (I) Supported Family Living.

002.02 NON-HABILITATIVE SERVICES.

- (A) Adult Day Services;
- (B) Assistive Technology;
- (C) Environmental Modification Assessment;
- (D) Home Modifications;
- (E) Personal Emergency Response System;
- (F) Respite;
- (G) Transitional Services;
- (H) Transportation Service; and
- (I) Vehicle Modifications.

003. SERVICE REQUIREMENTS.

003.01 INDIVIDUALIZED SERVICES. Services are individualized based on the outcomes of the ~~participant-directed-support~~ person-centered planning team process and are to be delivered as authorized and described in the Individual Support Plan (ISP).

003.02 RESTRICTED HOURS. Services under this chapter shall not replace or duplicate any services available through public education programs funded under the Individuals with Disabilities Education Act (IDEA), or other services available through public education programs in the participant's local school district. Services cannot be provided during regular school hours, as set by the local public school district, even if a participant is home-schooled.

003.03 DUPLICATE SERVICES. Services under this chapter shall not replace or duplicate services provided through other Medicaid Home and Community-Based Services (HCBS) Waivers or Medicaid State Plan services.

003.04 EMPLOYMENT SERVICES. All employment-related services must be provided in a manner that promotes integration into the workplace and interaction between participants and people without disabilities in those workplaces. Employment-related services include:

- (A) Prevocational Service;
- (B) ~~Supported Employment—Enclave Small Group Vocational Support;~~
- (C) Supported Employment – Follow Along; and
- (D) Supported Employment – Individual.

003.05 SERVICE HOURS. Employment-related services, Adult Day Services, ~~Habilitative Community Inclusion~~ Community Integration, and ~~Habilitative-Workshop~~ Day Support services, in any combination, are limited to a maximum of 35 hours per week.

003.06 OTHER BENEFITS. Participants shall apply for and accept any other federally-funded benefits for which they may be eligible.

003.07 PROVIDER REQUIREMENTS. ~~Independent Providers of services under Medicaid Home and Community-Based Services Waivers must meet requirements established in Title 404 Nebraska Administrative Code (NAC) 5.~~

~~Independent Providers must be at least 19 years of age and independent providers of Supported Employment Individual, Supported Employment Follow Along, Adult Companion Service, Consultative Assessment Service, and Prevocational Service must:~~

- ~~(A) Be an enrolled Medicaid provider;~~
- ~~(B) Provide evidence of one of the following:~~
  - ~~(i) A Bachelor's degree, or equivalent coursework or training, in education, psychology, social work, sociology, human services, or a related field;~~
  - ~~(ii) Four or more years experience providing habilitative services for individuals with intellectual or other developmental disabilities or in habilitative program writing and program data collection and analysis;~~
  - ~~(iii) Four or more years experience teaching or supporting an individual with developmental disabilities; or~~
  - ~~(iv) Any combination of education and experience identified above totaling four years or more;~~
- ~~(C) Provide evidence of current certificate of completion from a training source approved by the Department in:~~

- ~~(i) State law reporting requirements and prevention of abuse, neglect, and exploitation;~~
- ~~(ii) Cardiopulmonary resuscitation (CPR); and~~
- ~~(iii) Basic first aid;~~
- ~~(D) Not be a legally responsible individual or guardian of the participant;~~
- ~~(E) Not be an employee of DHHS; and~~
- ~~(F) Possess a valid driver's license and insurance as required by Nebraska law, if the provider will be driving while providing services.~~

004. AVAILABLE SERVICES, LIMITATIONS, AND PROVIDER TYPES.

~~004.01 ADULT COMPANION SERVICE. Adult Companion Service is a drop-in, habilitative service that includes adaptive skill development, non-medical care, supervision, socialization, and assisting a participant in maintaining safety in the home and enhancing independence in self-care and home-living skills.~~

~~Adult Companion Service consists of prompting and supervising the participant in completing the following tasks, including, but not limited to:~~

- ~~(A) Activities of daily living (ADL);~~
- ~~(B) Health maintenance;~~
- ~~(C) Meal preparation;~~
- ~~(D) Laundry;~~
- ~~(E) Learning how to obtain police, fire, and emergency assistance;~~
- ~~(F) Performing routine household activities to maintain a clean and safe home; and~~
- ~~(G) Managing personal financial affairs.~~

~~Adult Companion Service providers must not perform these activities for the participant.~~

~~004.01(A) LIMITATIONS. The following limitations apply to Adult Companion Service.~~

- ~~(i) Adult Companion Service cannot exceed a weekly amount of 25 hours;~~
- ~~(ii) Adult Companion Service is reimbursed at an hourly rate; and~~
- ~~(iii) Adult Companion Service is only provided in homes not operated or controlled by the provider.~~

~~004.01(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency or Independent Providers.~~

004.012 ADULT DAY SERVICES. ~~Adult Day Services is a non-habilitative service consisting of meaningful day activities which take place in the community.~~ Adult Day Services provide active supports that foster independence, encompassing both health and social services needed to ensure the optimal functioning of the participant. Adult Day Services includes assistance with activities of daily living (ADL), health maintenance, and supervision. Participants receiving Adult Day Services are integrated into the community to the greatest extent possible. The Adult Day Services provider must be within immediate proximity of the participant to allow staff to provide support, supervision, safety, security, and activities to keep participants engaged in their environment. ~~The Adult Day Services provider must be within immediate proximity of the participant to allow staff to provide support, supervision, safety, security, and activities to keep participants engaged in their environment.~~

004.012(A) LIMITATIONS. The following limitations apply to Adult Day Services:

- (i) Adult Day Services ~~is~~ are paid at an hourly rate;
- (ii) Transportation to and from the Adult Day Services ~~is~~ are not included; and
- (iii) Services must not be provided in a residential setting.

004.012(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified Providers.

~~004.023 ASSISTIVE TECHNOLOGY. Assistive Technology is equipment or a product system necessary for a participant's health, welfare and safety such as devices, controls or appliances, whether acquired commercially, modified, or customized, used to increase, maintain or improve functional capabilities of a participant.~~ The use of assistive technology enables participants who reside in their own homes to increase their abilities to perform activities of daily living (ADL) in their home or to perceive, control, or communicate with the environment they live in, thereby decreasing their need for assistance from others as a result of limitations due to disability. Providers must provide and maintain Assistive Technology in accordance with applicable building codes or applicable standards of manufacturing, design, and installation. Providers must provide appropriate training to the participant in the use of the Assistive Technology.

~~Providers shall provide and maintain assistive technology in accordance with applicable building codes or applicable standards of manufacturing, design, and installation. Providers shall provide appropriate training to the participant in the use of the assistive technology.~~

004.023(A) LIMITATIONS. The following limitations apply to Assistive Technology.

- (i) Each participant has an annual budget cap of \$2,500 for Assistive Technology. A request to exceed the cap may be approved by the Department based on critical health or safety concerns, available Waiver funding, and other relevant factors;
- (ii) The Department may require an on-site assessment of the environmental concern including an evaluation of functional necessity with appropriate Medicaid enrolled professional providers. The cost of the Environmental Modification Assessment is not included in the \$2,500 cap on Assistive Technology;
- (iii) For items over \$500, proof of insurance or an extended warranty must be provided; and
- (iv) Damaged, stolen, or lost items not covered by insurance or warranty may only be replaced once every two years.

004.023(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified or Independent Providers.

004.03 COMMUNITY INTEGRATION. Services for Community Integration may include, but are not limited to:

- (A) An opportunity for the participant to practice skills taught in therapies, counseling sessions, or other settings to plan and participate in regularly scheduled community activities;
- (B) Supports furnished in the community;
- (C) A portion of this service received virtually if the participant chooses; and

(D) Assistance with activities of daily living (ADL), health maintenance, and supervision.

004.03(i) LIMITATIONS. The following limitations apply to Community Integration:

- (1) Participants may not perform paid work activities or unpaid activities in which others are typically paid, but may perform hobbies in which minimal money is received or volunteer activities;
- (2) Participants receiving Community Integration cannot receive Child Day Habilitation;
- (3) Community Integration is reimbursed at an hourly rate. The Community Integration provider is in the community providing a combination of habilitation supports, protective oversight, and supervision to bill in hourly units;
- (4) The rate tier for Community Integration is determined based on needs identified in the Objective Assessment Process (OAP);
- (5) Transportation required in the provision of Community Integration is included in the rate. The provider is responsible for all non-medical transports, to and from services. When the provider transports participants, the provider must ensure that all participants are transported in a safe and comfortable manner that meets the needs of each participant; and
- (6) This service cannot be provided during school hours set by the local school district for the participant. This limitation includes any and all public education programs funded under the Individuals with Disabilities Education Act (IDEA).

004.03(ii) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified or Independent Providers.

004.04 CONSULTATIVE ASSESSMENT SERVICE. Consultative Assessment Service is completed in collaboration with the support planning team and includes a Functional Behavior Assessment (FBA) including risk levels, the development of a Behavior Support Plan (BSP), the development of other habilitative plans, training, and technical assistance to carry out the plan, and treatment integrity support to the participant and the provider in the ongoing implementation of the plan. Providers may conduct observations in person or remotely using video conferencing. Consultative Assessment Service is necessary to improve the independence and inclusion of participants in their community. Consultative Assessment Services may include, but are not limited to:

- (1) Performing a Functional Behavioral Assessment (FBA) including the level of risk necessary to address problematic behaviors in functioning that are attributed to developmental, cognitive, or communication impairments;
- (2) Evaluating whether current interventions are correctly administered and effective;
- (3) Recommending any new interventions; and
- (4) Recommending best practices in intervention strategies, medical and psychological conditions, or environmental impact to service delivery to the participant's team.

~~Consultative Assessment Service is completed in collaboration with the support planning team and includes a Functional Behavior Assessment (FBA) including risk levels, the development of a Behavior Support Plan (BSP), the development of other habilitative plans, training, and technical assistance to carry out the plan, and treatment integrity support to the participant and the provider in the ongoing implementation of the plan.~~

~~Providers may conduct observations in person or by telehealth.~~

004.04(A) LIMITATIONS. The following limitations apply to Consultative Assessment Service:

- ~~(i) Consultative Assessment Services is billed at an hourly rate for up to 5 hours per month;~~
- ~~(ii) Consultative Assessment Services may only be provided by a Licensed Independent Mental Health Practitioner (LIMHP), Licensed Clinical Psychologist (PhD), Advanced Practice Registered Nurse (APRN), or Board-Certified Behavior Analyst (BCBA or BCBA-D) supervised under an LIMHP, licensed psychologist or APRN;~~
  - ~~(iii) Functional Behavioral Assessments may only be provided by a Licensed Independent Mental Health Practitioner (LIMHP), Licensed Clinical Psychologist (PhD), or Advanced Practice Registered Nurse (APRN);~~
- ~~(iii) (iv) Consultants providing Providers of this service must attend a minimum of two Individual Support Plan (ISP) meetings per ISP year. More frequent attendance may be necessary based on the frequency of High General Event Record (GER) reporting; and~~
- ~~(iv) For a participant under the age of 21 years, this service is available under the Medicaid State Plan under Early and Periodic Screening, Diagnosis, and Treatment (EPSDT).~~
- ~~(v) This service must not be provided concurrently with Crisis Intervention Support.~~

0034.04(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified or Independent Providers.

~~004.05 CRISIS INTERVENTION SUPPORT. Crisis Intervention Support is an immediate, intensive, and short term habilitative service provided to address a participant's temporary increased or severe occurrences of behaviors. This service is provided outside the participant's annual budget.~~

~~This service includes:~~

- ~~1) Development or modification of a Behavior Support Plan if Consultative Assessment Service has not occurred previously;~~
- ~~2) A Functional Behavior Assessment including risk level;~~
- ~~3) Development of other habilitative strategies, training, and technical assistance to carry out the plan; and~~
- ~~4) Treatment integrity support to the participant and the provider(s) of services other than Crisis Intervention Support, in the ongoing implementation of the Individual Support Plan.~~

~~Crisis Intervention Support is carried out in collaboration with the individual support planning team, in accordance with Functional Behavioral Assessments and, as applicable, in collaboration with the Consultative Assessment service provider.~~

004.05(A) LIMITATIONS. The following limitations apply to Crisis Intervention Support.

- ~~(i) The provider must complete all of the provider's responsibilities so that Crisis Intervention Support can be implemented within 48 hours of request;~~

- ~~(ii) Crisis Intervention Support is reimbursed at an hourly rate and is limited to no more than 200 hours in a 60-day period, and is further limited to no more than five 60-day periods in twelve consecutive months;~~
- ~~(iii) Crisis Intervention Support cannot be provided concurrently with Consultative Assessment Service;~~
- ~~(iv) Behavior Support Plan data with analysis must be documented by the provider in the Department approved electronic information system at the frequency approved in the Individual Support Plan and viewable to the Department;~~
- ~~(v) The amount of service will be approved by the Clinical Review Team and shall be based on verified need, evidence of the diagnosis or condition requiring this service;~~
- ~~(vi) Crisis Intervention Support must only be provided by a Licensed Independent Mental Health Practitioner (LIMHP), Licensed Clinical Psychologist (PhD), or Advanced Practice Registered Nurse (APRN); and~~
- ~~(vii) Direct support staff who do not have clinical experience must have earned a Bachelor's degree to implement positive behavior supports, behavioral interventions, and habilitative strategies.~~

~~004.05(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Providers.~~

~~004.056 ENVIRONMENTAL MODIFICATION ASSESSMENT. This assessment is used to ensure the health, welfare, and safety of the participant and to enable the participant to integrate more fully into the community. Environmental Modification Assessment is a functional evaluation conducted with the participant to determine if environmental modifications or assistive technology, are necessary:~~

- ~~(1) To enable the participant to integrate more fully into the community;~~
- ~~(2) To provide greater access to the participant in his or her home; or~~
- ~~(3) For the health, welfare, and safety of the participant.~~

~~004.056(A) LIMITATIONS. The following limitations apply to Environmental Modification Assessment:~~

- ~~(i) A Pp participant's annual budget cap for Environmental Modification Assessment is \$1,000. A request to exceed the cap may be approved by the Department based on critical health or safety concerns, available Waiver funding, and other relevant factors;~~
- ~~(ii) Environmental Modification Assessment is reimbursed at a flat rate per completed assessment not to exceed the amount charged to the general public; and~~
- ~~(iii) Environmental Modification Assessments must not evaluate a modification that is not allowed under this chapter.~~

~~004.056(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified or Independent Providers.~~

~~004.07 HABILITATIVE COMMUNITY INCLUSION. Habilitative Community Inclusion is a habilitative service that offers training and staff supports for: the acquisition, retention or improvement of self help; and behavioral, socialization, and adaptive skills that take place in~~



~~the community in a non-residential setting, separate from the participant's private residence or other residential living arrangement; or any setting outlined and approved in the participant's Individual Support Plan.~~

~~Habilitative Community Inclusion services may include, but are not limited to:~~

- ~~1) Assisting with the common use of the community's transportation system;~~
- ~~2) Facilitation of inclusion of the participant within a community group or volunteer organization;~~
- ~~3) Opportunities for the participant to join associations and community groups; Opportunities for inclusion in a broad range of community settings including opportunities to pursue social and cultural interests and ; and~~

~~004.07(A) LIMITATIONS. The following limitations apply to Habilitative Community Inclusion.~~

- ~~(i) Habilitative Community Inclusion Community Integration is reimbursed at an hourly rate;~~
- ~~(ii) The rate tier for Habilitative Community Inclusion is determined based upon needs identified in the Objective Assessment Process (OAP);~~
- ~~(iii) The provider is responsible for transporting the participant to and from the participant's private residence, or other provider setting, to settings in the community for Habilitative Community Inclusion services at no additional charge. Reimbursement for transportation is included in the rate for Habilitative Community Inclusion. The provider is responsible for all non-medical transports, to and from services. When the provider transports participants, the provider must ensure that all participants are transported in a safe and comfortable manner that meets the needs of each participant;~~
- ~~(iv) A Habilitative Community Inclusion provider or provider staff shall not provide Habilitative Community Inclusion services to persons 18 years and older and persons under 18 years of age at the same time and in the same location; and~~
- ~~(v) Providers must not engage a participant in work activities, paid or unpaid, during the delivery of this service.~~

~~004.07(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency or Independent Providers.~~

~~004.068 HABILITATIVE WORKSHOP DAY SUPPORT. Habilitative Workshop Day Support services provide regularly person-centered scheduled activities. This service includes the provision of personal care, health maintenance, and supervision. Habilitative Workshop Day Support services are regularly scheduled activities, formalized training, and staff supports for the acquisition, retention, or improvement in:~~

- ~~(1) Self-help;~~
- ~~(2) Behavioral skills;~~
- ~~(3) Adaptive skills;~~
- ~~(4) Social development;~~
- ~~(5) Activities of daily living (ADL); and~~
- ~~(6) Community living.~~

~~004.06(A) LIMITATIONS. The following limitations apply to Day Support:~~

- ~~(i) Day Support is reimbursed at an hourly rate; and~~

- (ii) ~~The amount of prior authorized services is based on the participant's need as documented in the service plan and within the participant's approved annual budget. If the service has a tiered rate, the rate tier for this service is determined based upon needs identified in the Objective Assessment Process (OAP);~~
- (iii) Transportation to and from the participant's private residence, or other provider setting, to a ~~Habilitative Workshop Day Support~~ setting is not included in the reimbursement rate;
- (iv) Transportation to and from the ~~Habilitative Workshop Day Support~~ setting to integrated community activities during the ~~Habilitative Workshop Day Support~~ service hours is included in the reimbursement rate. When the provider transports participants, the provider must ensure that all participants are transported in a safe and comfortable manner that meets the needs of each participant; and
- (v) This service must be provided in a ~~provider-operated~~ provider-operated or controlled non-residential setting, separate from the participant's private residence or other residential living arrangement.

~~004.08(A) LIMITATIONS. The following limitations apply to Habilitative Workshop.~~

- ~~(i) Habilitative Workshop is reimbursed at an hourly rate;~~
- ~~(ii) The rate for this service is determined based upon needs identified in the Objective Assessment Process (OAP);~~

004.068(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified Providers.

~~004.079 HOME MODIFICATIONS. Home Modifications are physical adaptations to the participant's residence that are necessary for the health, welfare, and safety of the participant, or are necessary to enable the participant to function with greater independence.~~ Home Modifications are provided within the current footprint of the residence. Such modifications include, but are not limited to:

- (1) Installation of ramps;
- (2) Widening of doorways;
- (3) Modification of bathroom facilities; and
- (4) Installation of specialized electric and plumbing systems that are necessary to accommodate the medical equipment and supplies that are necessary for the welfare of the participant.

004.079(A) LIMITATIONS. The following limitations apply to Home Modification-:

- (i) Home Modification has a budget ~~shall be capped at~~ of \$10,000 per five-year period. A request to exceed the cap may be approved by the Department based on critical health or safety concerns, available Waiver funding, and other relevant factors;
- (ii) Home modifications shall not be authorized for a residence that is provider-owned, provider-operated, or provider-controlled. Home modifications may be authorized for a home owned by a participant's family or guardian in which the participant resides;
- (iii) The Department may require an on-site environmental assessment, including an evaluation of functional necessity with an appropriate Medicaid-enrolled
- (iv)

- (v) professional provider. The cost of the Environmental Modification Assessment is not included in the \$10,000 budget cap for Home Modification;
- (vi) Renter's insurance or homeowner's insurance is required and proof shall be provided to the Department on request;
- (vii) Adaptations that add to the total square footage of the home are not allowed except when necessary to complete an adaptation (for example, in order to improve entry to a residence or to configure a bathroom to accommodate a wheelchair);
- (viii) Adaptations or improvements to the home that are of general utility, and are not of direct medical or remedial benefit to the participant are not allowed; and
- (ix) Adaptations will not be allowed if the home presents a health and safety risk to the participant, other than that corrected by the approved Home Modifications.

004.079(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified or Independent Providers.

004.08 INDEPENDENT LIVING. Independent Living is a habilitative service that provides individually tailored intermittent supports for a Waiver participant that assists with the acquisition, retention, or improvement in skills related to living in the community. Independent Living includes adaptive skill development of daily living activities necessary to enable the participant to live in the most integrated setting appropriate to their needs. Providers of Independent Living generally do not perform these activities for the participant, except when not performing the activities pose a risk to the participant's health and safety. Independent Living shall be provided to the participant in their private home and the community, not a provider-owner or leased, operated, or controlled residence. A participant may choose to receive a portion of this service virtually.

004.08(A) LIMITATIONS. The following limitations apply to Independent Living:

- (i) The total combined hours for virtual supports may not exceed a weekly amount of 10 hours and are included as part of the currently existing limit of 70 hours per week of services provided during the day;
- (ii) Independent Living is reimbursed at an hourly rate and the provider must use Electronic Visit Verification (EVV). Independent Living cannot exceed a weekly amount of 70 hours;
- (iii) Personal care activities that only require verbal cueing may be performed remotely, but cannot be performed in lieu of the provision of habilitation and needed supervision;
- (iv) Participants receiving Independent Living cannot receive Supported Family Living;
- (v) Participants receiving Independent Living cannot have an active service authorization for Respite; and
- (vi) This service must not overlap with, supplant, or duplicate other comparable services provided through Medicaid State Plan or Medicaid Home and Community-Based Services (HCBS) Waiver.

004.08(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Certified or Independent Providers.

004.0910 PERSONAL EMERGENCY RESPONSE SYSTEM (PERS). ~~Personal Emergency Response System (PERS) is an electronic device that enables a participant to secure help in an emergency.~~ The provider of the Personal Emergency Response System (PERS) is responsible for:

- (1) Instruction to the participant about how to use the Personal Emergency Response System (PERS) device;
- (2) Obtaining the participant's or authorized representative's signature verifying receipt of the Personal Emergency Response System (PERS) device;
- (3) Ensuring that response to device signals (where appropriate to the device) will be provided 24 hours per day, 7 days per week;
- (4) Ensuring that the participant has a functioning Personal Emergency Response System (PERS) device within 24 hours of notification of malfunction of the device;
- (5) Updating a list of responders and contact names, at least semi-annually, to ensure accurate and correct information;
- (6) Ensuring monthly testing of the Personal Emergency Response System (PERS) device; and
- (7) Furnishing ongoing assistance relating to instruction, use, and maintenance of the device.

004.0910(A) LIMITATIONS. The following limitations apply to Personal Emergency Response System (PERS):

- (i) Personal Emergency Response System (PERS) shall not be authorized for a participant who resides in a residence that is provider-owned, provider-operated, or provider-controlled;
- (ii) Personal Emergency Response System (PERS) is reimbursed as a monthly rental fee or as a one-time installation fee, as applicable; and
- (iii) Personal Emergency Response System (PERS) is ~~limited~~ limited to participants who live alone or who are alone for significant parts of the day and do not have a regular unpaid caregiver or provider for extended periods of time.

004.0910(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified Providers.

004.101 PREVOCATIONAL SERVICE. ~~Prevocational Service is a habilitative service that provides learning and work experiences, including career planning, job searching, and work experiences, where the participant can develop general, non-job-task-specific strengths and skills that contribute to future employability in paid employment in integrated community settings.~~ Prevocational Services may include career planning to prepare the participant to obtain, maintain or advance employment. Prevocational Services with a focus on career planning includes development of self-awareness and assessment of skills, abilities, and needs for self-identifying career goals and direction, including resume or business plan development for customized home businesses. Prevocational Services may involve assisting the participant in accessing an Employment Network, the Nebraska Work Incentive Network (WIN), Ticket to Work services, Work Incentive Planning and Assistance (WIPA) services, or other qualified service programs that provide benefits planning. Prevocational Services may include job searching designed to assist the participant (or in limited situations on behalf of the participant), to locate a job, or develop a work experience. Job searching with the participant will be provided on a one-to-one basis. Prevocational Services also includes the

~~provision of personal care and protective oversight and supervision (when applicable) to the participant. Prevocational Services may include career planning to prepare the participant to obtain, maintain or advance employment. Prevocational Services with a focus on career planning includes development of self-awareness and assessment of skills, abilities, and needs for self-identifying career goals and direction, including resume or business plan development for customized home businesses. Prevocational Services may involve assisting the participant in accessing an Employment Network, the Nebraska Work Incentive Network (WIN), Ticket to Work services, Work Incentive Planning and Assistance (WIPA) services, or other qualified service programs that provide benefits planning. Prevocational Services may include job searching designed to assist the participant (or in limited situations on behalf of the participant), to locate a job, or development of a work experience. Job searching with the participant will be provided on a one-to-one basis. Prevocational Services also includes the provision of personal care and protective oversight and supervision (when applicable) to the participant.~~ Participation in Prevocational Services is not a required pre-requisite for Supported Employment – Individual or ~~Supported Employment – Enclave~~ Small Group Vocational Support.

004.0104(A) LIMITATIONS. The following limitations apply to Prevocational Service:

- (i) Prevocational Services shall not exceed 12 consecutive months. Up to an additional 12 months may be approved by the Department with submission of an approved employment plan (through vocational rehabilitation, school district, or the Waiver) and showing active progress on finding employment opportunities, increasing work skills, time on tasks, or other job preparedness objectives;
- (ii) Prevocational Service is reimbursed at an hourly rate; and
- (iii) Transportation to and from the Prevocational Service is not included in the reimbursement rate for this service.

004.1044(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified or Independent Providers.

004.112 RESPITE. ~~Respite is a non-habilitative service furnished on a short-term, temporary basis as relief for the usual unpaid caregiver(s) living in the same private residence as the participant.~~ Respite includes assistance with activities of daily living (ADL), health maintenance, and supervision.

004.112(A) LIMITATIONS. The following limitations apply to Respite:

- (i) Respite service in an institutional setting requires prior approval by the Department and is not authorized unless no other option is available. Respite service in an institutional setting shall be paid at a per diem daily rate;
- (ii) Respite service, other than in an institutional setting, is reimbursed at an hourly rate in 15-minute increments or daily rate. Any use of Respite over 98 hours within a 24-hour period ~~must be billed as a daily rate; use of Respite under 9 hours must be billed in 15-minute increments is not reimbursable~~;
- (iii) The maximum number of hours for participants is 240 hours per annual budget year. Unused Respite cannot be carried over into the next annual budget year. Respite provided at the daily rate counts as 89 hours towards the 240 hour ~~hour~~ annual maximum;

- (iv) Transportation to and from the Respite service is not included in the reimbursement rate for this service;
- (v) Respite services may not be provided during the same time period as other program services;
- (vi) Respite services may not be provided by any Independent Provider living in the same private residence as the participant;
- (vii) A Respite service provider or provider staff shall not provide respite services to persons 18 years and older and persons under 18 years of age at the same time and in the same location; and
- (viii) An Independent Provider must have training in the following areas, and provide evidence of a current certificate of completion from a source approved by the Department:
  - (1a) State law reporting requirements and prevention of abuse, neglect, and exploitation;
  - (2b) Cardiopulmonary Resuscitation (CPR); and
  - (3e) Basic first aid.

004.112(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified or Independent Providers.

~~004.123 SUPPORTED EMPLOYMENT—ENCLAVE SMALL GROUP VOCATIONAL SUPPORT.~~ Supported Employment—Enclave is a habilitative service in which the The habilitative teaching, supervision, and ongoing supports are provided by a specially trained on-site supervisor, who is an employee of the Developmental Disabilities agency Certified provider. ~~provider employs participants, in groups, in regular business and industry settings.~~ Supported Employment—Enclave Small Group Vocational Support includes the acquisition of work skills, appropriate work behavior, and the behavioral and adaptive skills necessary to enable the participant to attain or maintain his or her maximum inclusion and personal accomplishment in the working community. Supported Employment—Enclave Small Group Vocational Support may include services not specifically related to job skill training that enables the participant to be successful in integrating into the job setting. The provider must obtain authorization to pay subminimum wage through the Nebraska Department of Labor.

004.123(A) LIMITATIONS. The following limitations apply to ~~Supported Employment—Enclave.~~ Small Group Vocational Support:

- ~~(i) Supported Employment—Enclave is billed at an hourly rate;~~
- ~~(ii) Supported Employment—Enclave must be provided in a manner that promotes integration into the workplace and interaction between participants and individuals without disabilities in those workplaces; and~~
- ~~(iii) This service cannot be provided in a setting or location controlled or operated by the provider.~~
- (i) The participant must first be referred to Vocational Rehabilitation and determined ineligible for Vocational Rehabilitation before this service can be authorized. Another referral can be made to Vocational Rehabilitation at any time;
- (ii) This service must be discontinued upon the participant obtaining competitive integrated employment;
- (iii) Small Group Vocational Support is billed at an hourly rate;

- (iv) Small Group Vocational Support must be provided in a manner that promotes integration into the workplace and interaction between participants and individuals without disabilities in those workplaces;
- (v) This service cannot be provided in a setting or location controlled or operated by the provider; and
- (vi) Waiver funds cannot be used to compensate or supplement a participant's wages.

004.123(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified Providers.

004.134 SUPPORTED EMPLOYMENT – FOLLOW ALONG. ~~Supported Employment—Follow Along is an individualized habilitative service that enables a participant to maintain employment in an integrated community employment setting. This employment is paid at or above the applicable minimum wage. This service is provided through intermittent and occasional job support, and communication with the participant's employer. The provider must maintain contact with the employer and participant to reinforce and stabilize job placement. The provider must observe and supervise the participant, teaching job tasks and monitoring at the work site a minimum of twice a month. The provider must facilitate natural support at the work site and advocate for the participant, but only for purposes directly related to employment.~~

~~The provider must observe and supervise the participant, teaching job tasks and monitoring at the work site a minimum of twice a month. The provider must facilitate natural supports the work site and advocate for the participant, but only for purposes directly related to employment.~~

004.134(A) LIMITATIONS. The following limitations apply to Supported Employment – Follow Along:

- (i) Supported Employment - Follow Along is billed at an hourly rate at 15-minute increments not to exceed 25 hours annually; and
- (ii) Supported Employment - Follow Along must be provided in an integrated community work environment where more than half the employees who work around the participant do not have a disability;:
- (iii) A provider of Supported Employment – Follow-Along cannot be the employer of the participant to whom they provide Supported Employment – Follow-Along; and
- (iv) Waiver funds cannot be used to compensate or supplement a participant's wages.

004.134(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified or Independent Providers.

004.145 SUPPORTED EMPLOYMENT – INDIVIDUAL. ~~Supported Employment—Individual is an individualized habilitative service designed to help a participant obtain and maintain competitive or customized employment, or self-employment, in an integrated work setting. Supported Employment - Individual includes adaptations, supervision, and training required by participants as a result of their disabilities but does not include supervisory activities rendered as a normal part of the business setting. The employer is still responsible for all routine and ordinary employment matters. This service is provided through formalized training~~

and supports. The provider shall provide help to the participant in accessing the following services:

- (A) Employment Network;
- (B) The Nebraska Work Incentive Network (WIN);
- (C) Ticket to Work services;
- (D) Work Incentive Planning and Assistance (WIPA) services; or
- (E) Other qualified service programs that provide benefits planning.

~~Supported Employment – Individual includes adaptations, supervision, and training required by participants as a result of their disabilities but does not include supervisory activities rendered as a normal part of the business setting. The employer is still responsible for all routine and ordinary employment matters.~~

004.154(A) LIMITATIONS. The following limitations apply to Supported Employment – Individual.

- (i) Participants are required to receive at least the applicable minimum wage, except for self-employment;
- (ii) Supported Employment – Individual service is reimbursed at an hourly rate; and
- (iii) Transportation to and from the Supported Employment – Individual service is not included in the reimbursement rate for this service.

004.154(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Certified or Independent Providers.

004.15 SUPPORTED FAMILY LIVING. ~~Supported Family Living is a habilitative service that provides individually tailored intermittent teaching and supports to assist with the acquisition, retention, or improvement in skills related to living in the community. Supported Family Living includes adaptive skill development necessary to enable the participant to live in the most integrated setting appropriate to their needs. Providers of Supported Family Living generally do not perform these activities for the participant, except when not performing the activities pose a risk to the participant’s health and safety. Supported Family Living is provided to the participant in the participant’s family home, not a provider-owned or leased, operated, or controlled setting. A participant can choose to receive a portion of this service virtually. The participant must reside with relatives in their private family home.~~

004.15(A) LIMITATIONS. The following limitations apply to Supported Family Living:

- (i) The total combined hours for virtual supports may not exceed a weekly amount of 10 hours and are included as part of the currently existing limit of 70 hours per week of services provided during the day;
- (ii) The use of virtual supports must be a person-centered decision and facilitate community integration and not risk leading to the isolation of the participant from the community or from interacting with other people;
- (iii) The amount of prior authorized services is based on the participant’s need as documented in the service plan, and within the participant’s approved annual budget;
- (iv) Supported Family Living is reimbursed at an hourly rate and the provider must use Electronic Visit Verification (EVV);
- (v) Supported Family Living cannot exceed a weekly amount of 70 hours; and



(vi) This service must not overlap with, supplant, or duplicate other comparable services provided through the Medicaid State Plan or Home and Community-Based Services (HCBS) Waiver.

004.15(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified or Independent Providers.

004.16 TRANSITIONAL SERVICES. ~~Transitional Services are essential, non-recurring basic household set-up expenses needed for participants transitioning from an institution to a private residence that remove identified barriers or risks for the success of the transition.~~ Transitional Services may be approved when a need remains and all other economic assistance resources are exhausted. Transitional Services includes items, such as furniture, furnishings, household items, basic utility fees or deposits, or professional moving expenses.

004.16(A) LIMITATIONS. The following limitations apply to Transitional Services:

- (i) Transitional Services have a participant budget cap of \$1,500. A request to exceed the cap must be based on critical health or safety concerns, based on available Waiver funding and other relevant factors, and is subject to approval by the Department;
- (ii) Approved Transitional Services shall be reimbursed directly to a provider, and not the participant;
- (iii) Payment for a rental deposit or rent is not allowed in this service;
- (iv) Payment for personal care items, food, or clothing, is not allowed in this service; and
- (v) This service cannot be provided for a residence owned or controlled by the provider.

004.16(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified or Independent Providers.

004.17 TRANSPORTATION SERVICE. ~~Transportation is a non-habilitative service that enables participants to access program services, and community activities, and resources as specified in the participant's service plan.~~ This service does not include transportation to medical appointments that is available under the Medicaid State Plan or other federal and state transportation programs. Transportation Service is not intended to replace formal or informal transportation options, like the use of natural supports. Transportation providers must meet the same requirements as Medicaid Non-Emergency Transportation Providers, with the exception that the participant's household can own their own vehicle. The provider must ensure that all participants are transported in a safe and comfortable manner that meets the needs of each participant. The provider must ensure that:

- (1) Vehicles are adapted to meet the needs of all participants served. Participants must not be denied Transportation Services due to the lack of adaptation of vehicles;
- (2) Adequate measures are taken to provide a sufficient number of staff in the vehicle to ensure safety and to meet the needs of each ~~participant~~ participant being transported; and
- (3) Each person transporting participants served:
  - (ia) Has a valid driver's license with the appropriate class code;
  - (iib) Has knowledge of state and local traffic rules;

- (iii) Is capable of assisting participants in and out of vehicles and to and from parking places, when required; and
- (iv) Has received training in first aid, ~~e~~Cardiopulmonary ~~r~~Resuscitation (CPR), and ~~in~~ meeting the needs of the specific participants for whom transportation is provided.

004.17(A) LIMITATIONS. The following limitations apply to Transportation Service: Provider reimbursement for transporting a participant to and from destinations must be calculated by using the most direct route;

- (i) Transportation is reimbursed per mile:
  - (1) Certified provider mileage is reimbursed pursuant to Neb. Rev. Stat. § 81-1176 times three; and
  - (2) Independent Provider mileage is reimbursed pursuant to Neb. Rev. Stat. § 81-1176;
- (ii) Public transit system transportation is reimbursed at the cost of a single ride pass; and
- (iii) The public transportation rate shall not exceed the rates charged to the general public.

004.17(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified or Independent Providers.

004.18 VEHICLE MODIFICATIONS. ~~Vehicle Modifications are adaptations or alterations to a motor vehicle that is the participant's primary means of transportation in order to accommodate the accessibility needs of the participant. Vehicle Modifications are specified by the service plan as necessary to enable the participant to integrate more fully into the community and to ensure the health, welfare, and safety of the participant.~~

004.18(A) LIMITATIONS. The following limitations apply to Vehicle Modifications:

- (i) Vehicle Modification services has a budget cap of \$10,000 per five-year period. A request to exceed the cap must be based on critical health or safety concerns, based on available Waiver funding and other relevant factors, and is subject to approval by the Department;
- (ii) The Department may require an on-site assessment of the an environmental concern, including an evaluation of functional necessity with an appropriate Medicaid enrolled professional provider. The cost of the Environmental Modification Assessment is not included in the \$10,000 budget cap for Vehicle Modification;
- (iii) Motor vehicle insurance is required, and proof must be provided to the Department on request;
- (iv) If the motor vehicle is leased, the proof that the modification is transferrable to the next motor vehicle must be provided before Vehicle Modification will be approved;
- (v) Vehicle Modifications are limited to motor vehicles that are titled or leased in the name of the participant or a family member;
- (vi) Adaptations or improvements to the vehicle that are of general utility, and are not of direct medical or remedial benefit to the participant, are not allowed;
- (vii) Vehicle Modification service cannot be used to purchase or lease a vehicle;

- (viii) ~~The P~~urchase of existing adaptations or adaptations begun without prior authorization is not allowed; and
- (ix) ~~The R~~egularly scheduled upkeep and maintenance of a vehicle except ~~for~~ upkeep and maintenance of the modifications ~~is~~ are not considered a Vehicle Modification.

004.18(B) ELIGIBLE PROVIDER TYPES. This service may be provided by ~~Agency~~ Certified Providers.

TITLE 403 MEDICAID HOME AND COMMUNITY-BASED WAIVER SERVICES  
(HCBS) FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

CHAPTER 5 COMPREHENSIVE DEVELOPMENTAL DISABILITIES SERVICES  
WAIVER

001. GENERAL INTRODUCTION. The Comprehensive Developmental Disabilities Services Waiver is authorized under § 1915(c) of the Social Security Act and permits the State to furnish eligible individuals an array of habilitative and non-habilitative services in residential and community settings.

002. COMPREHENSIVE DEVELOPMENTAL DISABILITIES SERVICES WAIVER. The following services may be provided under the Comprehensive Developmental Disabilities Services Waiver:

002.01 HABILITATIVE SERVICES.

- ~~(A) Adult Companion Service;~~
- ~~(BA) Behavioral In-Home Habilitation;~~
- ~~(CB) Child Day Habilitation;~~
- ~~(D)C) Consultative Assessment Service;~~
- ~~(E) Crisis Intervention Support;~~
- ~~(F) Habilitative Inclusion;~~
- ~~(D) Community Integration;~~
- ~~(G) Habilitative Workshop;~~
- ~~(E) Day Support;~~
- ~~(H) In-Home Residential Habilitation;~~
- ~~(H) Independent Living;~~
- ~~(JG) Prevocational Service;~~
- ~~(KH) Medical In-Home Habilitaiton;~~
- ~~(L) Residential Habilitation;~~
- ~~(MJ) Supported Employment – Enclave Small Group Vocational Support;~~
- ~~(NK) Supported Employment – Follow Along; and~~
- ~~(OL) Supported Employment – Individual;~~
- ~~(PM) Supported Family Living; and~~
- ~~(QN) Therapeutic Residential Habilitation.~~

002.02 NON-HABILITATIVE SERVICES.

- (A) Adult Day Services;
- (B) Assistive Technology;
- (C) Environmental Modification Assessment;
- (D) Home Modifications;
- (E) Homemaker Service;

- (F) Personal Emergency Response System;
- (G) Respite;
- (H) Transitional Services;
- (I) Transportation Service; and
- (J) Vehicle Modifications.

### 003. SERVICE REQUIREMENTS.

003.01 INDIVIDUALIZED SERVICES. Services are individualized based on the outcomes of the participant-directed support planning team process, and are to be delivered as authorized and described in the Individual Support Plan.

003.02 RESTRICTED HOURS. Services under this chapter shall not replace or duplicate any services available through public education programs funded under the Individuals with Disabilities Education Act (IDEA), or other services available through public education programs in the participant's local school district, including, but not limited to, after school supervision and daytime services when school is not in session. Program services cannot be provided during regular school hours, as set by the local public school district, even if a participant is home-schooled.

003.03 DUPLICATE SERVICES. Services under this chapter shall not replace or duplicate services provided through other Medicaid Home and Community-Based Services (HCBS) Waivers or Medicaid State Plan services.

003.04 EMPLOYMENT SERVICES. All employment-related services must be provided in a manner that promotes integration into the workplace and interaction between participants and people without disabilities in those workplaces. Employment-related services include:

- (A) Prevocational Service;
- (B) ~~Supported Employment—Enclave Small Group Vocational Support;~~
- (C) Supported Employment – Follow Along; and
- (D) Supported Employment – Individual.

003.05 SERVICE HOURS. Employment-related services, Adult Day Services, Habilitative ~~Community Inclusion~~ Community Integration, and ~~Habilitative Workshop Day Support~~ Sservices, in any combination, cannot be provided to a participant in excess of 35 hours per week.

003.06 OTHER BENEFITS. Participants shall apply for and accept any other federally-funded benefits for which they may be eligible.

003.07 PROVIDER REQUIREMENTS. ~~Independent Providers of services under Medicaid Home and Community-Based Services Waivers must meet requirements established in Title 404 Nebraska Administrative Code (NAC) 5.~~

~~must be at least 19 years of age and independent providers of Supported Employment—Individual, Supported Employment Follow—Along, Adult Companion Service, Consultative Assessment Service, and Prevocational Service must:~~

- ~~(A) Be an enrolled Medicaid provider;~~
- ~~(B) Provide evidence of one of the following:~~

- ~~(i) A Bachelor's degree, or equivalent coursework or training, in education, psychology, social work, sociology, human services, or a related field;~~
- ~~(ii) Four or more years experience providing habilitative services for individuals with intellectual or other developmental disabilities or in habilitative program writing and program data collection and analysis;~~
- ~~(iii) Four or more years experience teaching or supporting an individual with developmental disabilities; or~~
- ~~(iv) Any combination of education and experience identified above totaling four years or more;~~
- ~~(C) Provide evidence of current certificate of completion from a training source approved by the Department in:~~
  - ~~(i) State law reporting requirements and prevention of abuse, neglect, and exploitation;~~
  - ~~(ii) Cardiopulmonary resuscitation (CPR); and~~
  - ~~(iii) Basic first aid;~~
- ~~(D) Not be a legally responsible individual or guardian of the participant;~~
- ~~(E) Not be an employee of DHHS; and~~
- ~~(F) Possess a valid driver's license and insurance as required by Nebraska law, if the provider will be driving while providing services.~~

#### 004. AVAILABLE SERVICES, LIMITATIONS, AND PROVIDER TYPES.

~~004.01 ADULT COMPANION SERVICE. Adult Companion Service is a drop-in, habilitative service that includes adaptive skill development, non-medical care, supervision, socialization, and assisting a participant in maintaining safety in the home and enhancing independence in self-care and home living skills.~~

~~Adult Companion Service consists of prompting and supervising the participant in completing tasks including, but not limited to:~~

- ~~1) Activities of daily living (ADL);~~
- ~~2) Health maintenance;~~
- ~~3) Meal preparation;~~
- ~~4) Laundry;~~
- ~~5) Teaching the use of police, fire, and emergency assistance;~~
- ~~6) Performing routine household activities to maintain a clean and safe home; and~~
- ~~7) Managing personal financial affairs.~~

~~Adult Companion Service providers must not perform these activities for the participant.~~

~~004.01(A) LIMITATIONS. The following limitations apply to Adult Companion Service.~~

- ~~(i) Adult Companion Service cannot exceed a weekly amount of 25 hours;~~
- ~~(ii) Adult Companion Service is reimbursed at an hourly rate;~~
- ~~(iii) Adult Companion Service is only provided in homes not operated or controlled by the provider; and~~
- ~~(iv) This service cannot be authorized in conjunction with Residential Habilitation or In-Home Residential Habilitation services.~~

~~004.01(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency or Independent Providers.~~

~~004.021 ADULT DAY SERVICES. Adult Day Services is a non-habilitative service consisting of meaningful day activities that take place in the community.~~ Adult Day Services provide active supports that foster independence, encompassing both health and social services needed to ensure the optimal functioning of the participant. Adult Day Services include assistance with activities of daily living (ADL), health maintenance and supervision. Participants receiving Adult Day Services must be integrated into the community to the greatest extent possible. The Adult Day Services provider must be within immediate proximity of the participant to allow staff to provide support, supervision, safety, security, and activities to keep participants engaged in their environment.

~~The Adult Day Service provider must be within immediate proximity of the participant to allow staff to provide support, supervision, safety, security and activities to keep participants engaged in their environment.~~

004.021(A) LIMITATIONS. The following limitations apply to Adult Day Services-:

- (i) Adult Day Services is paid at an hourly rate;
- (ii) Transportation to and from the Adult Day Services is not included;
- (iii) Services must not be provided in a residential setting; and
- (iv) Available to adult participants aged 21 years and older.

004.021(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified Providers.

~~004.032 ASSISTIVE TECHNOLOGY. Assistive Technology is equipment or a product system necessary for a participant's health, welfare and safety such as devices, controls or appliances, whether acquired commercially, modified, or customized, used to increase, maintain or improve functional capabilities of a participant.~~ The use of Assistive Technology enables participants who reside in their own homes to increase their abilities to perform activities of daily living in their home, or to perceive, control or communicate with the environment they live in, thereby decreasing their need for assistance from others as a result of limitations due to disability. Providers must provide and maintain Assistive Technology in accordance with applicable building codes or applicable standards of manufacturing, design and installation. Providers must provide appropriate training to the participant in the use of the Assistive Technology.

~~Providers shall provide and maintain Assistive Technology in accordance with applicable building codes or applicable standards of manufacturing, design and installation. Providers shall provide appropriate training to the participant in the use of the Assistive Technology.~~

004.032(A) LIMITATIONS. The following limitations apply to Assistive Technology:

- (i) Each participant has an annual budget cap of \$2,500 for Assistive Technology. A request to exceed the cap may be approved by the Department based on critical health or safety concerns, available Waiver funding, and other relevant factors;
- (ii) The Department may require an on-site assessment of the environmental concern including an evaluation of functional necessity with appropriate Medicaid-enrolled

- (iii) professional providers. The cost of the Environmental Modification Assessment is not included in the \$2,500 cap on Assistive Technology;
- (iv) For items over \$500, proof of insurance or an extended warranty must be provided; and
- (v) Damaged, stolen, or lost items not covered by insurance or warranty may only be replaced once every two years.

004.032(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified or Independent Providers.

004.03 BEHAVIORAL IN-HOME HABILITATION. Behavioral In-Home Habilitation is a short-term habilitative service provided to Waiver participants who have a chronic or severe mental health condition that prevents them from fully participating in community activities or employment opportunities. Services are based on the current needs and capabilities of the participant and under the direction of ongoing clinical oversight provided by the Developmental Disabilities provider.

004.03(A) LIMITATIONS. The following limitations apply to Behavioral In-Home Habilitation:

- (i) Must be provided in the participant's residence. The provider must be in the residence with the participant, providing service during daytime hours, as documented in the service plan;
- (ii) May be authorized in combination with any, or all, of the following services in the same service plan, but the services may not be provided and billed for concurrently: Adult Day, Small Group Vocational Support, Community Integration, Day Support, Medical In-Home Habilitation, Prevocational, Supported Employment – Follow-Along, and Supported Employment – Individual. The total combined hours for these services may not exceed a weekly amount of 35 hours. Educational school hours and Vocational Rehabilitation milestone hours are included within the weekly 35 hours;
- (iii) Behavioral In-Home Habilitation is limited to 90 calendar days per occurrence. Additional occurrences must be approved by the Division of Developmental Disabilities (DDD) Central Office administration;
- (iv) Behavioral In-Home Habilitation is not available to participants receiving Therapeutic Residential Habilitation, Independent Living, or Supported Family Living; and
- (v) Behavioral In-Home Habilitation is reimbursed at an hourly unit and the provider must use Electronic Visit Verification.

004.03(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Certified Providers.

004.04 CHILD DAY HABILITATION. Child Day Habilitation is a habilitative service that provides teaching and staff supports to meet the age-appropriate needs of a child due to a disability or special health conditions. Child Day Habilitation activities and environments are designed to teach adaptive skills and build positive social behavior while meeting the child's additional needs related to a disability or special health conditions.



004.04(A) LIMITATIONS. The following limitations apply to Child Day Habilitation:

- (i) Child Day Habilitation is available for participants living in their private family residence who are under 21 years of age;
- (ii) Child Day Habilitation is not available to participants receiving Community Integration, Residential Habilitation, or Therapeutic Residential Habilitation;
- (iii) Child Day Habilitation only covers necessary services and supports associated with the child's physical, medical, personal care, or behavioral needs not included in regular childcare;
- (iv) Child Day Habilitation cannot exceed a weekly amount of 70 hours for participants living in their private family residence; and
- (v) Child Day Habilitation is reimbursed at an hourly rate.

004.04(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified or Independent Providers.

004.05 COMMUNITY INTEGRATION. Services for Community Integration may include, but are not limited to:

- (1) An opportunity for the participant to practice skills taught in therapies, counseling sessions, or other settings to plan and participate in regularly scheduled community activities;
- (2) Supports furnished in the community;
- (3) A participant can choose to receive a portion of this service virtually; and
- (4) Assistance with activities of daily living (ADL), health maintenance, and supervision.

004.05(A) LIMITATIONS. The following limitations apply to Community Integration:

- (i) Participants may not perform paid work activities or unpaid activities in which others are typically paid, but may perform hobbies in which minimal money is received or volunteer activities;
- (ii) Participants receiving Community Integration cannot receive Child Day Habilitation;
- (iii) Community Integration is reimbursed at an hourly rate. The Community Integration provider must be in the community providing a combination of habilitation supports, protective oversight, and supervision to bill in hourly units;
- (iv) The rate tier for Community Integration is determined based on needs identified in the Objective Assessment Process (OAP);
- (v) Transportation required in the provision of Community Integration is included in the rate. The provider is responsible for all non-medical transports, to and from services. When the provider transports participants, the provider must ensure that all participants are transported in a safe and comfortable manner that meets the needs of each participant; and
- (vi) This service cannot be provided during school hours set by the local school district for the participant. This limitation includes any and all public education programs funded under the Individuals with Disabilities Education Act (IDEA).

004.05(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified or Independent Providers.

~~004.07 HABILITATIVE COMMUNITY INCLUSION. Habilitative Community Inclusion is a habilitative service that offers training and staff supports for: the acquisition, retention or improvement in self help; and behavioral, socialization and adaptive skills that take place in the community in a non-residential setting, separate from the participant's private residence or other residential living arrangement; or any setting outlined and approved in the participant's Individual Support Plan.~~

~~Habilitative Community Inclusion services may include, but are not limited to:~~

- ~~1) Assisting with the common use of the community's transportation system;~~
- ~~2) Facilitation of inclusion of the participant within a community group or volunteer organization;~~
- ~~3) Opportunities for the participant to join associations and community groups;~~
- ~~4) Opportunities for inclusion in a broad range of community settings including opportunities to pursue social and cultural interests, and choice making; and~~
- ~~5) Assistance with activities of daily living (ADL), health maintenance, and supervision.~~

~~004.07(A) LIMITATIONS. The following limitations apply to Habilitative Community Inclusion:~~

- ~~(i) Habilitative Community Inclusion is reimbursed at an hourly rate;~~
- ~~(ii) The rate tier for Habilitative Community Inclusion is determined based upon needs identified in the Objective Assessment Process (OAP);~~
- ~~(iii) The provider is responsible for transporting the participant to and from the participant's private residence, or other provider setting, to settings in the community for Habilitative Community Inclusion services at no additional charge. Reimbursement for transportation is included in the rate for Habilitative Community Inclusion. The provider is responsible for all non-medical transports to and from services. When the provider transports participants, the provider must ensure that all participants are transported in a safe and comfortable manner that meets the needs of each participant;~~
- ~~(iv) A Habilitative Community Inclusion provider or provider staff shall not provide Habilitative Community Inclusion services to persons 18 years and older and persons under 18 years of age at the same time and in the same location;~~
- ~~(v) Providers must not engage a participant in work activities, paid or unpaid, during the delivery of this service; and~~
- ~~(vi) The rate for this service shall not include the basic cost of childcare unrelated to a child's disability. The "basic cost of child care" means the rate charged by and paid to a childcare center or individual provider for children who do not have special needs.~~

~~004.07(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency or Independent Providers.~~

~~004.064 CONSULTATIVE ASSESSMENT SERVICE. Consultative Assessment Service is the development, modification, evaluation or implementation of a behavior support plan to assist participants in maintaining their current living environment, while ensuring their safety and the safety of others. Consultative Assessment Service is completed in collaboration with the support planning team and includes a Functional Behavior Assessment (FBA) including risk levels, the development of a Behavior Support Plan (BSP), the development of other~~

~~habilitative plans, training, technical assistance to carry out the plan, and treatment integrity support to the participant and the provider in the ongoing implementation of the plan. Providers may conduct observations in person or remotely using video conferencing.~~ Consultative Assessment Service is necessary to improve the independence and inclusion of participants in their community. Consultative Assessment Services may include, but are not limited to:

- ~~(1)~~ (1) Performing a Functional Behavioral Assessment (FBA) including level of risk necessary to address problematic behaviors in functioning that are attributed to developmental, cognitive or communication impairments;
- ~~(2)~~ (2) Evaluating whether current interventions are correctly administered and effective;
- ~~(3)~~ (3) Recommending any new interventions; and
- ~~(4)~~ (4) Recommending best practices in intervention strategies, medical and psychological conditions, or environmental impact to service delivery to the participant's team.

~~Consultative Assessment Service is completed in collaboration with the support planning team and includes: a Functional Behavior Assessment (FBA) including risk levels; the development of a Behavior Support Plan (BSP); development of other habilitative plans; training and technical assistance to carry out the plan; and treatment integrity support to the participant and the provider in the ongoing implementation of the plan.~~

~~Providers may conduct observations in person or by telehealth.~~

~~004.064(A)~~ LIMITATIONS. The following limitations apply to Consultative Assessment Service:

- ~~(i)~~ (i) Consultative Assessment Services is billed at an hourly rate for up to 5 hours per month;
- ~~(ii)~~ (ii) Consultative Assessment Services may only be provided by a Licensed Independent Mental Health Practitioner (LIMHP), Licensed Clinical Psychologist (~~PhD~~), or Advanced Practice Registered Nurse (APRN);
- ~~(iii)~~ (iii) Functional Behavioral Assessments (~~FBA~~) may only be provided by a Licensed Independent Mental Health Practitioner (LIMHP), Licensed Clinical Psychologist (~~PhD~~), or Advanced Practice Registered Nurse (APRN);
- ~~(iv)~~ (iv) ~~Consultants providing Providers of~~ this service must attend a minimum of two Individual Support Plan (ISP) meetings per ISP year. More frequent attendance may be necessary based on the frequency of High General Event Record (GER) reporting; ~~and~~
- ~~(v)~~ ~~This service must not be provided concurrently with Crisis Intervention Support; and~~
- ~~(vi)~~ (v) For a participant under the age of 21 years, this service is available under the Medicaid State Plan under Early and Periodic Screening, Diagnosis, and Treatment (EPSDT).

~~004.064(B)~~ ELIGIBLE PROVIDER TYPES. This service may be provided by ~~Agency Certified~~ or Independent Providers.

~~004.05 CRISIS INTERVENTION SUPPORT. Crisis Intervention Support is an immediate, intensive and short term habilitative service provided to address a participant's temporary~~

~~increased or severe occurrences of behaviors. This service is provided outside the participant's annual budget.~~

~~This service includes:~~

- ~~1) Development or modification of a Behavior Support Plan if Consultative Assessment Service has not occurred previously;~~
- ~~2) A Functional Behavior Assessment including risk level;~~
- ~~3) Development of other habilitative strategies, training, and technical assistance to carry out the plan; and~~
- ~~4) Treatment integrity support to the participant and the provider(s) of services other than Crisis Intervention Support, in the ongoing implementation of the Individual Support Plan.~~

~~Crisis Intervention Support is carried out in collaboration with the individual support planning team, in accordance with Functional Behavioral Assessments and, as applicable, in collaboration with the Consultative Assessment service provider.~~

~~004.05(A) LIMITATIONS. The following limitations apply to Crisis Intervention Support.~~

- ~~(i) The provider must complete all of the provider's responsibilities, so that Crisis Intervention Support can be implemented within 48 hours of request;~~
- ~~(ii) Crisis Intervention Support is reimbursed at an hourly rate and is limited to no more than 200 hours in a 60-day period, and is further limited to no more than five 60-day periods in twelve consecutive months;~~
- ~~(iii) Crisis Intervention Support cannot be provided concurrently with Consultative Assessment Service;~~
- ~~(iv) Behavior Support Plan data with analysis must be documented by the provider in the Department-approved electronic information system, at the frequency approved in the Individual Support Plan and viewable to the Department;~~
- ~~(v) The amount of service will be approved by the clinical review team and shall be based on verified need, evidence of the diagnosis or condition requiring this service;~~
- ~~(vi) Crisis Intervention Support must only be provided by a Licensed Independent Mental Health Practitioner (LIMHP), Licensed Clinical Psychologist (PhD), or Advanced Practice Registered Nurse (APRN);~~
- ~~(vii) Direct support staff who do not have clinical experience, shall have earned a Bachelor's degree to implement positive behavior supports, behavioral interventions, and habilitative strategies; and~~
- ~~(viii) Crisis Intervention Support is available to adult participants aged 21 years and over. For a participant under the age of 21 years, this service is available under the Medicaid State Plan under Early and Periodic Screening, Diagnosis, and Treatment (EPSDT).~~

~~004.05(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Providers.~~

~~004.07 DAY SUPPORT. Day Support services provide regularly scheduled activities, such as:~~

- ~~(1) Self-help;~~

- (2) Behavioral skills;
- (3) Adaptive skills;
- (4) Social development;
- (5) Activities of daily living; and
- (6) Community living.

004.07(A) LIMITATIONS. The following limitations apply to Day Support:

- (i) Day Support is reimbursed at an hourly rate;
- (ii) The rate for this service is determined based upon needs identified in the Objective Assessment Process (OAP);
- (iii) Transportation to and from the participant's private residence, or other provider setting, to a Day Support setting is not included in the reimbursement rate;
- (vi) Transportation to and from the Day Support setting to integrated community activities during the Day Support service hours is included in the reimbursement rate. When the provider transports participants, the provider must ensure that all participants are transported in a safe and comfortable manner that meets the needs of each participant; and
- (vii) This service must be provided in a provider operated or controlled non-residential setting, separate from the participant's private residence or other residential living arrangement.

004.07(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Certified Providers.

004.086 ENVIRONMENTAL MODIFICATION ASSESSMENT. Is used to ensure the health, welfare and safety of the participant and to enable the participant to integrate more fully into the community Environmental Modification Assessment is a functional evaluation conducted with the participant to determine if environmental modifications or assistive technology, are necessary:

- ~~(1) To enable the participant to integrate more fully into the community;~~
- ~~(2) To provide greater access to the participant in his or her home; or~~
- ~~(3) For the health, welfare, and safety of the participant.~~

004.086(A) LIMITATIONS. The following limitations apply to Environmental Modification Assessment:-

- (i) Participant's annual budget cap for Environmental Modification Assessment is \$1,000. A request to exceed the cap may be approved by the Department based on critical health or safety concerns, available Waiver funding and other relevant factors;
- (ii) Environmental Modification Assessment is reimbursed at a flat rate per completed assessment not to exceed the amount charged to the general public; and
- (iii) Environmental Modification Assessments must not evaluate a modification that is not allowed under this chapter.

004.086(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified or Independent Providers.

~~004.07 HABILITATIVE COMMUNITY INCLUSION. Habilitative Community Inclusion is a habilitative service that offers training and staff supports for: the acquisition, retention or improvement in self help; and behavioral, socialization and adaptive skills that take place in the community in a non-residential setting, separate from the participant's private residence or other residential living arrangement; or any setting outlined and approved in the participant's Individual Support Plan.~~

~~Habilitative Community Inclusion services may include, but are not limited to:~~

- ~~6) Assisting with the common use of the community's transportation system;~~
- ~~7) Facilitation of inclusion of the participant within a community group or volunteer organization;~~
- ~~8) Opportunities for inclusion in a broad range of community settings including opportunities to pursue social and cultural interests, and choice making; and~~
- ~~9) Assistance with activities of daily living (ADL), health maintenance, and supervision.~~

~~004.07(A) LIMITATIONS. The following limitations apply to Habilitative Community Inclusion:~~

- ~~(vii) Habilitative Community Inclusion is reimbursed at an hourly rate;~~
- ~~(viii) The rate tier for Habilitative Community Inclusion is determined based upon needs identified in the Objective Assessment Process (OAP);~~
- ~~(ix) The provider is responsible for transporting the participant to and from the participant's private residence, or other provider setting, to settings in the community for Habilitative Community Inclusion services at no additional charge. Reimbursement for transportation is included in the rate for Habilitative Community Inclusion. The provider is responsible for all non-medical transports to and from services. When the provider transports participants, the provider must ensure that all participants are transported in a safe and comfortable manner that meets the needs of each participant;~~
- ~~(x) A Habilitative Community Inclusion provider or provider staff shall not provide Habilitative Community Inclusion services to persons 18 years and older and persons under 18 years of age at the same time and in the same location;~~
- ~~(xi) Providers must not engage a participant in work activities, paid or unpaid, during the delivery of this service; and~~
- ~~(xii) The rate for this service shall not include the basic cost of childcare unrelated to a child's disability. The "basic cost of child care" means the rate charged by and paid to a childcare center or individual provider for children who do not have special needs.~~

~~004.07(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency or Independent Providers.~~

~~004.08 HABILITATIVE WORKSHOP. Habilitative Workshop services provide regularly scheduled activities. This service includes the provision of personal care, health maintenance and supervision. Habilitative Workshop services are regularly scheduled activities, formalized training and staff supports for the acquisition, retention or improvement in:~~

- ~~1) Self help;~~
- ~~2) Behavioral skills;~~

- ~~3) Adaptive skills;~~
- ~~4) Social development;~~
- ~~5) Activities of daily living; and~~
- ~~6) Community living.~~

~~004.08(A) LIMITATIONS. The following limitations apply to Habilitative Workshop.~~

- ~~(i) Habilitative Workshop is reimbursed at an hourly rate;~~
- ~~(ii) The rate for this service is determined based upon needs identified in the Objective Assessment Process (OAP);~~
- ~~(iii) Transportation to and from the participant's private residence, or other provider setting, to a Habilitative Workshop setting is not included in the reimbursement rate;~~
- ~~(iv) Transportation to and from the Habilitative Workshop setting to integrated community activities during the Habilitative Workshop service hours is included in the reimbursement rate. When the provider transports participants, the provider must ensure that all~~
  - ~~(i) participants are transported in a safe and comfortable manner that meets the needs of each participant; and~~
  - ~~(v) This service must be provided in a provider operated or controlled non-residential setting, separate from the participant's private residence or other residential living arrangement.~~

~~004.08(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Providers.~~

004.09 HOME MODIFICATIONS. ~~Home Modifications are physical adaptations to the participant's residence that are necessary for the health, welfare and safety of the participant, or are necessary to enable the participant to function with greater independence.~~ Home Modifications are provided within the current footprint of the participant's residence. Such modifications include, but are not limited to:

- (1) Installation of ramps;
- (2) Widening of doorways;
- (3) Modification of bathroom facilities; and
- (4) Installation of specialized electric and plumbing systems that are necessary to accommodate the medical equipment and supplies that are necessary for the welfare of the participant.

004.09(A) LIMITATIONS. The following limitations apply to Home Modification:

- (i) Home Modification has a budget cap of \$10,000 per five year period. A request to exceed the cap may be approved by the Department based on critical health or safety concerns, available Waiver funding and other relevant factors;
- (ii) Home modifications shall not be authorized for a residence that is provider-owned, provider-operated or provider-controlled. Home modifications may be authorized for a home owned by a participant's family or guardian in which the participant resides;
- (iii) The Department may require an on-site environmental assessment, including an evaluation of functional necessity with an appropriate Medicaid-enrolled

professional provider. The cost of the Environmental Modification Assessment is not included in the \$10,000 budget cap for Home Modification;

- (iv) Renter's insurance or homeowner's insurance is required and proof provided to the Department on request;
- (v) Adaptations that add to the total square footage of the home are not allowed, except when necessary to complete an adaptation (for example, in order to improve entry to a residence or to configure a bathroom to accommodate a wheelchair);
- (vi) Adaptations or improvements to the home that are of general utility and are not of direct medical or remedial benefit to the participant are not allowed; and
- (vii) Adaptations will not be allowed if the home presents a health and safety risk to the participant, unless the risk is corrected by the approved Home Modifications.

004.09(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified or Independent Providers.

004.10 HOMEMAKER SERVICE. ~~Homemaker Service is the~~ Includes the performance of general household activities. ~~such as meal preparation, laundry services, errands and routine household care.~~ This service does not include direct care or supervision of the participant.

004.10(A) LIMITATIONS. The following limitations apply to Homemaker Service.

- (i) Homemaker Services have an annual cap of 520 hours;
- (ii) Homemaker Services are available only to participants age 18 and younger, residing in their family homes;
- (iii) Homemaker Services must not duplicate or replace other supports available to the participant such as natural supports;
- (iv) Homemaker Services are reimbursed at an hourly rate;
- (v) Transportation is not included in the reimbursement rate for this service; ~~and~~
- (vi) Homemaker Services cannot be provided by a person who lives in the same private residence as the participant; ~~and~~
- (vii) Homemaker service is only available when the individual regularly responsible for these activities is temporarily absent or unable to manage the home and care for him or herself or others in the home.

004.10(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified or Independent Providers.

004.11 HOSPITAL SUPPORT. Hospital Support services are non-waiver, non-habilitative, individually-tailored, short-term supports that are available only during a participant's in-patient, acute care hospitalization for the optimal functioning and safety of the participant. These supports include strategies to maintain learned skills, address inappropriate behaviors, and provide assistance with activities of daily living (ADL) to support the participant's optimal treatment and recovery. Providers are not allowed to engage in any health maintenance activities, treatments, procedures, medication administration, or practices that must be furnished by hospital staff. The provider must be within immediate proximity of the participant and the participant must be awake and alert.



~~Providers are not allowed to engage in any health maintenance activities, treatments, procedures, medication administration or practices that must be furnished by hospital staff.~~

~~The provider must be within immediate proximity of the participant and the participant must be awake and alert.~~

004.11(A) LIMITATIONS. The following limitations apply to Hospital Support:

- (i) Hospital Support is reimbursed at an hourly rate;
- (ii) Hospital Support is limited to 6 hours per day, for not more than 5 days per hospital stay;
- (iii) The amount of authorized services does not come out of the participant's annual budget; and
- (iv) Hospital Support services may be approved by the Department based on critical health or safety concerns, proof that all other resources, including natural supports, have been exhausted, availability of funding and other relevant factors.

004.11(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified or Independent Providers.

004.12 INDEPENDENT LIVING. Independent Living is a habilitative service that provides individually tailored intermittent supports for a Waiver participant that assists with the acquisition, retention, or improvement in skills related to living in the community. Independent Living includes adaptive skill development of daily living activities necessary to enable the participant to live in the most integrated setting appropriate to their needs. Providers of Independent Living generally do not perform these activities for the participant, except when not performing the activities pose a risk to the participant's health and safety. Independent Living is provided to the participant in their private home and the community, not a provider-owner or leased, operated, or controlled residence. A participant may choose to receive a portion of this service virtually.

004.12(A) LIMITATIONS. The following limitations apply to Independent Living:

- (i) The total combined hours for virtual supports may not exceed a weekly amount of 10 hours and is included as part of the currently existing limit of 70 hours per week of services provided during the day;
- (ii) Independent Living is reimbursed at an hourly rate and the provider must use Electronic Visit Verification. Independent Living cannot exceed a weekly amount of 70 hours;
- (iii) Personal care activities that only require verbal cueing may be performed remotely, but cannot be performed in lieu of the provision of habilitation and needed supervision;
- (iv) Participants receiving Independent Living cannot receive Supported Family Living;
- (v) Participants receiving Independent Living cannot have an active service authorization for Respite; and
- (vi) This service must not overlap with, supplant, or duplicate other comparable services provided through Medicaid State Plan or Medicaid Home and Community Based Waiver Services.

004.12(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified or Independent Providers.

004.13 MEDICAL IN-HOME HABILITATION. Medical In-Home Habilitation is a short-term habilitative service provided to Waiver participants who have a chronic or severe medical condition that prevents them from fully participating in community activities or employment opportunities, or have recently been hospitalized and are continuing to recover in their residence, and their medical needs prevent them from participating in community activities or employment opportunities. This service is provided to meet needs of the participant that are not met through the provision of acute care hospital services.

004.13(A) LIMITATIONS. The following limitations apply to Medical In-home Habilitation:

- (i) Medical In-Home Habilitation must be provided in the participant's residence. The provider must be in the residence with the participant, providing service during daytime hours, as documented in the service plan;
- (ii) Medical In-Home Habilitation may be authorized in combination with any, or all, of the following services in the same service plan, but the services may not be provided and billed for concurrently: Adult Day, Behavioral In-Home Habilitation, Community Integration, Day Support, Prevocational, Small Group Vocational Support, Supported Employment – Follow-Along, and Supported Employment – Individual. Educational school hours and Vocational Rehabilitation milestone hours are included within the weekly 35 hours. The total combined hours for these services may not exceed a weekly amount of 35 hours;
- (iii) Medical In-Home Habilitation is limited to 90 calendar days per occurrence. Additional occurrences must be approved by the Division of Developmental Disabilities (DDD) Central Office administration. Participants receiving Independent Living cannot receive Supported Family Living;
- (iv) Medical In-Home Habilitation is only available to participants receiving Residential Habilitation;
- (v) Medical In-Home Habilitation is not available to participants receiving Therapeutic Residential Habilitation, Independent Living, or Supported Family Living; and
- (vi) Medical In-Home Habilitation is reimbursed at an hourly unit and the provider must use Electronic Visit Verification(EVV).

004.13(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Certified Providers.

~~004.12 IN-HOME RESIDENTIAL HABILITATION. In-home Residential Habilitation is a habilitative service that provides individually tailored supports that assist with the acquisition, retention or improvement in skills related to living in the community in the most integrated setting appropriate to the participant's needs. These supports include:~~

- ~~1) Adaptive skill development;~~
- ~~2) Assistance with activities of daily living (ADL);~~
- ~~3) Habilitative community inclusion;~~
- ~~4) Transportation;~~
- ~~5) Opportunities for practicing skills taught in therapies, counseling sessions, or other settings; and~~
- ~~6) Social and leisure skill development.~~

~~In-Home Residential Habilitation includes personal care, protective oversight and supervision.~~

~~004.12(A) LIMITATIONS. The following limitations apply to In-Home Residential Habilitation:~~

- ~~(i) In-Home Residential Habilitation service cannot be provided in a setting controlled or operated by the provider;~~
- ~~(ii) In-Home Residential Habilitation is provided to an individual, or group of 2, based on the assessed needs of the participant(s);~~
- ~~(iii) This service cannot be provided in conjunction with Habilitative Community Inclusion, Transportation, and Adult Companion services; and~~
- ~~(iv) In-Home Residential Habilitation service is reimbursed at an hourly rate.~~

~~004.12(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency or Independent Providers.~~

004.143 PERSONAL EMERGENCY RESPONSE SYSTEM (PERS). ~~Personal Emergency Response System (PERS) is an electronic device that enables a participant to secure help in an emergency.~~ The provider of the Personal Emergency Response System (PERS) is responsible for:

- (1) Instruction to the participant about how to use the Personal Emergency Response System (PERS) device;
- (2) Obtaining the participant's or authorized representative's signature verifying receipt of the Personal Emergency Response System (PERS) device;
- (3) Ensuring that response to device signals (where appropriate to the device) will be provided 24 hours per day, 7 days per week;
- (4) Ensuring that the participant has a functioning Personal Emergency Response System (PERS) device within 24 hours of notification of malfunction of the device;
- (5) Updating a list of responder and contact names, at least semi-annually, to ensure accurate and correct information;
- (6) Ensuring monthly testing of the Personal Emergency Response System (PERS) device; and
- (7) Furnishing ongoing assistance relating to instruction, use, and maintenance of the device.

004.143(A) LIMITATIONS. The following limitations apply to Personal Emergency Response System (PERS):

- ~~(i)~~ (1) Personal Emergency Response System (PERS) shall not be authorized for a participant who resides in a residence that is provider-owned, provider-operated or provider-controlled;
- ~~(ii)~~ (2) Personal Emergency Response System (PERS) is reimbursed as a monthly rental fee or as a one-time installation fee, as applicable; and
- ~~(iii)~~ (3) Personal Emergency Response System (PERS) is limited to participants who live alone or who are alone for significant parts of the day and do not have a regular unpaid caregiver or provider for extended periods of time.

004.143(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified Providers.

004.154 PREVOCAATIONAL SERVICE. ~~Prevocational Service is a habilitative service that provides learning and work experiences, including career planning, job searching and work experiences, where the participant can develop general, non-job-task-specific strengths and skills that contribute to future employability in paid employment in integrated community settings. Prevocational Services may include career planning to prepare the participant to obtain, maintain, or advance employment. Prevocational Services with a focus on career planning include the development of self-awareness and assessment of skills, abilities and needs for self-identifying career goals and direction, including resume or business plan development for customized home businesses. Prevocational Services may involve assisting the participant in accessing an Employment Network, the Nebraska Work Incentive Network (WIN), Ticket to Work services, Work Incentive Planning and Assistance (WIPA) services, or other qualified service programs that provide benefits planning. Prevocational Services may include job searching designed to assist the participant (or in limited situations on behalf of the participant), to locate a job or development of a work experience. Job searching with the participant will be provided on a one-to-one basis. Prevocational Services also includes the provision of personal care and protective oversight and supervision (when applicable) to the participant. Participation in Prevocational Services is not a required pre-requisite for Small Group Vocational Support.~~

~~Prevocational Services may include career planning to prepare the participant to obtain, maintain or advance employment. Prevocational Services with focus on career planning includes development of self-awareness and assessment of skills, abilities and needs for self-identifying career goals and direction, including resume or business plan development for customized home businesses. Prevocational Services may involve assisting the participant in accessing an Employment Network, the Nebraska Work Incentive Network (WIN), Ticket to Work services, Work Incentive Planning and Assistance (WIPA) services, or other qualified service programs that provide benefits planning.~~

~~Prevocational Services may include job searching designed to assist the participant (or in limited situations on behalf of the participant), to locate a job or development of a work experience. Job searching with the participant will be provided on a one-to-one basis.~~

~~Prevocational Services also includes the provision of personal care and protective oversight and supervision (when applicable) to the participant.~~

~~Participation in Prevocational Services is not a required pre-requisite for Supported Employment—Individual or Supported Employment—Enclave services.~~

004.154(A) LIMITATIONS. The following limitations apply to Prevocational Service:;

- (i) Prevocational Services shall not exceed 12 consecutive months. Up to an additional 12 months may be approved by the Department with submission of an approved employment plan (through vocational rehabilitation, school district, or the Waiver) and showing active progress on finding employment opportunities, increasing work skills, time on tasks, or other job preparedness objectives;
- (ii) Prevocational Service is reimbursed at an hourly rate; and
- (iii) Transportation to and from the Prevocational Service is not included in the reimbursement rate for this service.

004.154(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified or Independent Providers.

004.165 RESIDENTIAL HABILITATION. Residential Habilitation is a habilitative service that has three service delivery options - Continuous Home, Host Home, and Shared Living. Participants may only choose one option. provides individually tailored supports that assist with the acquisition, retention or improvement in skills related to living in the community in the most integrated setting appropriate to the participant's needs. These Residential Habilitation supports include:

- (1) Adaptive skill development;
- (2) Assistance with activities of daily living (ADL);
- (3) ~~Habilitative community inclusion~~ Community Integration;
- (34) Transportation;
- (45) Opportunities for practicing skills taught in therapies, counseling sessions, or other settings; and
- (56) Social and leisure skill development.

~~Residential habilitation includes personal care, protective oversight and supervision.~~

004.165(A) LIMITATIONS. The following limitations apply to Residential Habilitation:

- (i) ~~Continuous home Residential Habilitation~~ service shall only be authorized for a residence that is provider-owned, provider-operated, or provider-controlled;
- (ii) ~~Developmental Disability Certified Providers cannot own or lease the home in which Host Home or Shared Living is provided;~~
- ~~(iii) Participants receiving a Residential Habilitation daily rate cannot receive Independent Living or Supported Family Living on the same day service cannot be provided in conjunction with Adult Companion Service or Transportation Service;~~
- ~~(iiiiv)~~ The provider is responsible for transporting the participant to and from the residential setting at no additional charge. Reimbursement for transportation is included in the rate for Residential Habilitation. The provider is responsible for all non-medical transports to and from services. When the provider transports participants, the provider must ensure that all participants are transported in a safe and comfortable manner that meets the needs of each participant; and
- (iv) The provider must be in the residence with the participant providing services for a minimum of 10 hours in a 24 hour period 12:00 am -11:59 pm. Services provided for less than for 8 10 hrs in -or more hours in a 24-hour period 12:00am - 11:59pm will be paid at one half of the daily rate ~~otherwise the service is reimbursed at an hourly rate.~~

004.165(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified Providers.

004.176 RESPITE. ~~Respite is a non-habilitative service furnished on a short term, temporary basis as relief for the usual unpaid caregiver(s) living in the same private residence as the participant.~~ Respite includes assistance with activities of daily living, health maintenance, and supervision.

004.176(A) LIMITATIONS. The following limitations apply to Respite:

- (i) Respite service in an institutional setting requires prior approval by the Department and is not authorized unless no other option is available. Respite service in an institutional setting shall be paid at a per-diem daily rate;
- (ii) Respite service, other than in an institutional setting, is reimbursed ~~in 15-minute increments or daily rate. Any use of Respite over 9 hours within a 24-hour period must be billed as a daily rate; use of Respite under 9 hours must be billed in 15-minute increments; at an hourly rate, and the provider must use Electronic Visit Verification. Any use of respite over eight hours within a 24-hour period is not reimbursable;~~
- (iii) The maximum number of hours for participants is 360 hours per annual budget year. Unused Respite hours cannot be carried over into the next annual budget year. Respite provided at the daily rate counts as 9 hours towards the 360 hour annual maximum;
- (iv) Transportation to and from the Respite service is not included in the reimbursement rate for this service;
- (v) Respite services may not be provided during the same time period as other ~~program~~ Medicaid Home and Community Based Services (HCBS) services;
- (vi) Respite services may not be provided by any Independent Provider living in the same private residence as the participant;
- (vii) A Respite service provider or provider staff shall not provide respite services to persons 18 years and older and persons under 18 years of age at the same time and in the same location; and
- (viii) An Independent Provider must have training in the following areas and provide evidence of current certificate of completion from a source approved by the Department:
  - (1) State law reporting requirements and prevention of abuse, neglect and exploitation;
  - (2) Cardiopulmonary resuscitation; and
  - (3) Basic first aid.

004.176(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified or Independent Providers.

~~004.187 SUPPORTED EMPLOYMENT — ENCLAVE SMALL GROUP VOCATIONAL SUPPORT. Supported Employment — Enclave Small Group Vocational Support is a habilitative service in which the provider employs participants, in groups, in regular business and industry settings. Supported Employment — Enclave Small Group Vocational Support includes the acquisition of work skills, appropriate work behavior, and the behavioral and adaptive skills necessary to enable the participant to attain or maintain his or her maximum inclusion and personal accomplishment in the working community. Small Group Vocational Support Supported Employment — Enclave may include services not specifically related to job skill training that enable the participant to be successful in integrating into a job setting. The provider must obtain authorization to pay subminimum wage through the Nebraska Department of Labor.~~

~~Supported Employment — Enclave Small Group Vocational Support includes the acquisition of work skills, appropriate work behavior, and the behavioral and adaptive skills necessary to enable the participant to attain or maintain his or her maximum inclusion and personal~~

~~accomplishment in the working community. Small Group Vocational Support Supported Employment—Enclave may include services not specifically related to job skill training that enable the participant to be successful in integrating into the job setting. The provider must obtain authorization to pay subminimum wage through the Nebraska Department of Labor.~~

004.187(A) LIMITATIONS. The following limitations apply to Small Group Vocational Support Supported Employment—Enclave:

- (i) Small Group Vocational Support may be authorized in combination with any, or all, of the following services in the same service plan, but the services may not be provided and billed for concurrently; Adult Day, Behavioral In-Home Habilitation, Community Integration, Day Support, Prevocational, and Medical In-Home Habilitation. The total combined hours for these services may not exceed a weekly amount of 35 hours. A week is defined as 12:00am Monday through 11:59pm Sunday;
  - (ii) The participant must first be referred to Vocational Rehabilitation and be determined ineligible for Vocational Rehabilitation before this service can be authorized ;
  - (iii) Small Group Vocational Support Supported Employment - Enclave is billed at an hourly rate;
  - (iv) Waiver funds cannot be used to compensate or supplement a participant's wages; Small Group Vocational Support must be provided in a manner that promotes integration into the workplace and interaction between participants and individuals without disabilities in those workplaces; and
  - (v) This service cannot be provided in a setting or location controlled or operated by the provider.
- ~~(i) Supported Employment—Enclave is billed at an hourly rate;~~  
~~(ii) Supported Employment—Enclave must be provided in a manner that promotes integration into the workplace and interaction between participants and individuals without disabilities in those workplaces; and~~  
~~(iii) This service cannot be provided in a setting or location controlled or operated by the provider.~~

004.187(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified Providers.

004.198 SUPPORTED EMPLOYMENT – FOLLOW ALONG. ~~Supported Employment—Follow Along is an individualized habilitative service that enables a participant to maintain employment in an integrated community employment setting. This employment is paid at or above the applicable minimum wage. This service is provided for, or on behalf of, a participant through intermittent and occasional job support, and communicating with the participant's employer. Providers must maintain contact with the employer and participant to reinforce and stabilize job placement. The provider must observe and supervise the participant, teaching job tasks and monitoring at the work site a minimum of twice a month. The provider must facilitate natural supports at the work site and advocate for the participant, but only for purposes directly related to employment.~~

~~The provider must observe and supervise the participant, teaching job tasks and monitoring at the work site a minimum of twice a month. The provider must facilitate natural supports at the work site and advocate for the participant, but only for purposes directly related to employment.~~

004.198(A) LIMITATIONS. The following limitations apply to Supported Employment – Follow Along:

- (i) Supported Employment- Follow Along is reimbursed at an hourly rate;
- (ii) Supported Employment - Follow Along ~~is billed at 15-minute increments~~ is not to exceed 25 hours annually and be a combination of communication with the employer and face-to- participant support; and
- (iii) Supported Employment - Follow Along must be provided in an integrated community work environment where more than half the employees who work around the participant do not have a disability.

004.198(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified or Independent Providers.

~~004.2019 SUPPORTED EMPLOYMENT – INDIVIDUAL. Supported Employment – Individual is an individualized habilitative service designed to help a participant obtain and maintain competitive or customized employment, or self-employment, in an integrated work setting. This service is provided through formalized training and supports. Supported Employment - Individual includes adaptations, supervision, and training required by participants as a result of their disabilities but does not include supervisory activities rendered as a normal part of the business setting. The employer is still responsible for all routine and ordinary employment matters.~~ The provider shall provide help to the participant in accessing the following services:

- (1) Employment Network;
- (2) The Nebraska Work Incentive Network (WIN);
- (3) Ticket to Work services;
- (5) Work Incentive Planning and Assistance (WIPA) services; or
- (6) Other qualified service programs that provide benefits planning.

~~Supported Employment – Individual includes adaptations, supervision, and training required by participants as a result of their disabilities, but does not include supervisory activities rendered as a normal part of the business setting. The employer is still responsible for all routine and ordinary employment matters.~~

004.2019(A) LIMITATIONS. The following limitations apply to Supported Employment – Individual:

- (i) Participants are required to receive at least the applicable minimum wage, except for self-employment;
- (ii) Supported Employment - Individual service is reimbursed at an hourly rate; and
- (iii) Transportation to and from the Supported Employment – Individual service is not included in the reimbursement rate for this service.

004.2019(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified or Independent Providers.



004.21 SUPPORTED FAMILY LIVING. Supported Family Living is a habilitative service that provides individually tailored intermittent teaching and supports to assist with the acquisition, retention, or improvement in skills related to living in the community. Supported Family Living includes adaptive skill development necessary to enable the participant to live in the most integrated setting appropriate to their needs. Providers of Supported Family Living generally do not perform these activities for the participant, except when not performing the activities pose a risk to the participant's health and safety. Supported Family Living is provided to the participant in the participant's family home, not a provider-owned or leased, operated or controlled setting. A participant can choose to receive a portion of this service virtually. The participant must live with relatives in their private family home.

004.21(A) LIMITATIONS. The following limitations apply to Supported Family Living:

- (i) The total combined hours for virtual supports may not exceed a weekly amount of 10 hours and is included as part of the currently existing limit of 70 hours per week of services provided during the day;
- (ii) Use of virtual supports must be a person centered decision and facilitate community integration and not risk leading to the isolation of the participant from the community or from interacting with other people;
- (iii) The amount of prior authorized services is based on the participant's need as documented in the participant's service plan, and within the participant's approved annual budget;
- (iv) Supported Family Living is reimbursed at an hourly rate and the provider must use Electronic Visit Verification;
- (v) Supported Family Living cannot exceed a weekly amount of 70 hours; and
- (vi) This service must not overlap with, supplant, or duplicate other comparable services provided through the Medicaid State Plan or Home and Community-Based Services (HCBS) Waiver.

004.21(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Certified or Independent Providers.

004.22 THERAPEUTIC RESIDENTIAL HABILITATION. Therapeutic Residential Habilitation is a continuous all-inclusive habilitative service designed specifically for participants living with co-occurring disorders of Developmental Disabilities (DD) with Severe Mental Illness (SMI). The intent of Therapeutic Residential Habilitation is to assist participants in gaining the life skills needed to transition to the least restrictive settings and services in the community.

004.22(A) LIMITATIONS. The following limitations apply to Therapeutic Residential Habilitation:

- (i) Therapeutic Residential Habilitation is reimbursed at a daily rate;
- (ii) The provider must be with the participant, providing a combination of habilitation, supports, protective oversight, and supervision for a minimum of ten hours in a 24-hour period 12:00am- 11:59pm for the provider to bill a daily rate. When the provider is with the participant, providing a combination of habilitation, supports, protective oversight, and supervision for less than ten hours in a 24-hour period, the provider will be paid one-half of the daily rate;
- (iii) Participants receiving Therapeutic Residential Habilitation cannot receive Adult Day, Behavioral In-Home Habilitation, Child Day Habilitation, Small Group

Vocational Support, Community Integration, Medical In-Home Habilitation, Prevocational, Supported Employment – Follow-Along, or Supported Employment – Individual. Supported Family Living is reimbursed at an hourly rate, and the provider must use Electronic Visit Verification;

- (iv) Participants receiving Therapeutic Residential Habilitation cannot receive Residential Habilitation Continuous Home, Host Home, Respite or Shared Living options; and
- (v) Participants receiving Therapeutic Residential Habilitation cannot receive Independent Living or Supported Family Living on the same day.

004.22(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Certified Providers.

~~004.2320~~ TRANSITIONAL SERVICES. ~~Transitional Services are essential, non-recurring basic household set-up expenses needed for participants transitioning from an institution to a private residence that remove identified barriers or risks for the success of the transition.~~ Transitional Services may be approved when a need remains and all other economic assistance resources are exhausted. Transitional Services includes items such as furniture, furnishings, household items, basic utility fees or deposits, and professional moving expenses.

004.2320(A) LIMITATIONS. The following limitations apply to Transitional Services:

- (i) Transitional Services have a participant budget cap of \$1,500. A request to exceed the cap must be based on critical health or safety concerns, based on available Waiver funding and other relevant factors, and is subject to approval by the Department;
- (ii) Approved Transitional Services shall be reimbursed directly to a provider, and not the participant;
- (iii) Payment for rental deposit or rent is not allowed in this service;
- (iv) Payment for personal care items, food, or clothing, is not allowed in this service; and
- (v) This service cannot be provided for a residence owned or controlled by the provider.

004.2320(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified or Independent Providers.

~~004.2424~~ TRANSPORTATION SERVICE. ~~Transportation is a non-habilitative service that enables participants to access program services, and community activities and resources.~~ This service does not include transportation to medical appointments that is available under the Medicaid State Plan or other federal and state transportation programs. Transportation Service is not intended to replace formal or informal transportation options, like the use of natural supports. Transportation providers must meet the same requirements as Medicaid Non-Emergency Transportation providers, with the exception that the participant's household can may own their own vehicle. The provider must ensure that all participants are transported in a safe and comfortable manner that meets the needs of each participant. The provider must ensure that:

- (1) Vehicles are adapted to meet the needs of all participants served. Participants must not be denied Transportation Services due to the lack of adaptation of vehicles;
- (2) Adequate measures are taken to provide a sufficient number of staff in the vehicle to ensure safety and to meet the needs of each participant being transported; and
- (3) Each person transporting participants served:
  - (ia) Has a valid driver's license with the appropriate class code;
  - (iib) Has knowledge of state and local traffic rules;
  - (iiie) Is capable of assisting participants in and out of vehicles and to and from parking places, when required; and
  - (ive) Has received training in first aid, cardiopulmonary resuscitation (CPR), and in meeting the needs of the specific participants for whom transportation is provided.

004.2421(A) LIMITATIONS. The following limitations apply to Transportation Service:

- (i) Provider reimbursement for transporting a participant to and from destinations must be calculated by using the most direct route;
- (ii) Participant's annual budget cap for Transportation Service is \$5,000. A request to exceed the cap must be based on critical health or safety concerns, based on available Waiver funding and other relevant factors, and is subject to approval by the Department;
- (iii) Transportation is reimbursed per mile:
  - (1) Agency Certified provider mileage is reimbursed pursuant to Neb. Rev. Stat. § 81-1176 times three; and
  - (2) Independent provider mileage is reimbursed pursuant to Neb. Rev. Stat. § 81-1176;
- (iv) Public transit system transportation is reimbursed at the cost of a single ride pass; and
- (v) The public transportation rate shall not exceed the rates charged to the general public.

004.2421(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified or Independent Providers.

004.2522 VEHICLE MODIFICATIONS. ~~Vehicle modifications are adaptations or alterations to a motor vehicle that is the participant's primary means of transportation in order to accommodate the special needs of the participant. Vehicle Modifications are specified by the service plan as necessary to enable the participant to integrate more fully into the community and to ensure the health, welfare, and safety of the participant.~~

004.2522(A) LIMITATIONS. The following limitations apply to Vehicle Modifications:-

- (i) Vehicle Modification services has a budget cap of \$10,000 per five-year period. A request to exceed the cap must be based on critical health or safety concerns, based on available Waiver funding and other relevant factors, and is subject to approval by the Department;
- (ii) The Department may require an on-site assessment of ~~the~~ an environmental concern including an evaluation of functional necessity with appropriate Medicaid enrolled professional provider. The cost of the Environmental Modification Assessment is not included in the \$10,000 budget cap for Vehicle Modification;

- (iii) Motor vehicle insurance is required and proof must be provided to the Department on request;
- (iv) If the motor vehicle is leased, ~~the~~ proof that the modification is transferrable to the next motor vehicle must be provided before Vehicle Modification will be approved;
- (v) Vehicle Modifications are limited to motor vehicles that are titled or leased in the name of the participant or a family member;
- (vi) Adaptations or improvements to the vehicle that are of general utility, and are not of direct medical or remedial benefit to the participant are not allowed;
- (vii) Vehicle Modification service cannot be used to purchase or lease a vehicle;
- (viii) The Purchase of existing adaptations or adaptations begun without prior authorization is not allowed; and
- (ix) Regularly scheduled upkeep and maintenance of a vehicle except upkeep and maintenance of the modifications is not ~~allowed~~ considered vehicle modifications.

004.2522(B) ELIGIBLE PROVIDER TYPES. This service may be provided by Agency Certified Providers.

TITLE 403                    MEDICAID HOME AND COMMUNITY-BASED WAIVER SERVICES  
(HCBS) FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

CHAPTER 6                FAMILY SUPPORT WAIVER

001. AUTHORITY. The Nebraska Department of Health and Human Services (DHHS) is authorized to establish, administer, and implement these regulations pursuant to Neb. Rev. Stat. §§ 68-1529 to 68-1534.

002. PURPOSE. The Department authorizes family support services under the Home and Community-Based Medicaid Waiver for Children with Intellectual and Developmental Disabilities and their Families. Services will be available to families caring for a child with a disability to promote independent living, family-centered care, and individual choices.

002.01 APPLYING. A child with developmental disabilities may apply for Waiver services. To receive Waiver services:

- (A) A slot must be available; and
- (B) The child must meet the criteria established for the Family Support Waiver.

003. WAIVER ELIGIBILITY. A child is eligible for the Children's Waiver if the child:

- (A) Submits a valid application for services;
- (B) Resides in the State of Nebraska;
- (C) Is less than 21 years of age or if they are 21 years of age or older and do not receive services under another 1915(c) Home and Community-Based Service Waiver;
- (D) Is currently on the registry to receive services under the Comprehensive Developmental Disabilities (CDD) or Developmental Disabilities Adult Day (DDAD) Service Waiver;
- (E) Has a need for Waiver Services and elects in writing to receive Waiver services;
- (F) Requires the level of services provided by an Intermediate Care Facility for Persons with Developmental Disabilities (ICF/IID) initially and annually thereafter;
- (G) Has a developmental disability as defined in the Developmental Disabilities Services Act;
- (H) Has a medically determinable physical or mental impairment or combination of impairments that (a) causes marked and severe functional limitations and (b) can be expected to cause death or has lasted or can be expected to last for a continuous period of not less than twelve months; and
- (I) Is determined to be Medicaid-eligible upon review of the child's income and assets, parental income being excluded pursuant to 477 NAC 24-001.01A1.

004. AVAILABLE SERVICES, LIMITATIONS, AND PROVIDER TYPES.

004.01 SERVICE TYPES. The following services are available:

- (A) Assistive Technology;
- (B) Child Day Habilitation;
- (C) Community Integration;
- (D) Day Supports;
- (E) Environmental Modifications Assessment;
- (F) Family and Caregiver Training;
- (G) Family and Peer Mentoring Supports;
- (H) Home Modifications;
- (I) Homemaker;
- (J) Independent Living;
- (K) Participant Directed Goods and Services;
- (L) Personal Emergency Response System (PERS);
- (M) Respite;
- (N) Supported Family Living;
- (O) Transportation; and
- (P) Vehicle Modifications.

004.02 SERVICE DESCRIPTIONS SPECIFIC TO FAMILY SUPPORT WAIVER.

004.02(A) ASSISTIVE TECHNOLOGY. The use of assistive technology enables participants who reside in their own homes to increase their abilities to perform activities of daily living (ADL) in their home or to perceive, control, or communicate with the environment they live in, thereby decreasing their need for assistance from others as a result of limitations due to disability. Providers shall provide and maintain assistive technology in accordance with applicable building codes or applicable standards of manufacturing, design, and installation. Providers shall provide appropriate training to the participant in the use of the assistive technology.

004.02(A)(i) LIMITATIONS. The following limitations apply to Assistive Technology:

- (1) The Department may require an on-site assessment of an environmental concern including an evaluation of functional necessity with appropriate Medicaid-enrolled professional providers. The Department may use a third party to assess the proposed modifications and the need for the modifications to ensure the cost-effectiveness and quality of a product. This assessment will be funded by the Environmental Modification Assessment services; and as such, it will be reimbursed separately;
- (2) Assistive Technology is limited to devices, controls, or appliances to assist the participant to perceive, control, or communicate with the environment they live in;
- (3) The amount of prior authorized services is based on the participant's need as documented in the participant's person-centered plan and within the participants' approved annual budget;
- (4) Assistive Technology is reimbursed per item directly to the Medicaid-enrolled provider or the manufacturer;
- (5) Providers may not exceed their charges to the public when billing the Waiver. A provider who offers a discount to certain individuals (for example, students,

- senior citizens, etc.) must apply the same discount to the participants who would otherwise qualify for the discount; and
- (6) Damaged, stolen, or lost items not covered by insurance or warranty may only be replaced once every two years.

004.02(A)(ii) ELIGIBLE PROVIDER TYPES. This service may be provided by Certified or Independent Providers.

004.02(B) CHILD DAY HABILITATION. A habilitative service that provides teaching and staff supports to meet the age-appropriate needs of a child due to a disability or special health conditions. Child Day Habilitation takes place in the community, separate from the participant's private family residence, in a provider setting approved, registered, or licensed by the Nebraska Department of Health and Human Services.

- 004.02(B)(i) LIMITATIONS. The following limitations apply to Child Day Habilitation:
- (1) Participants receiving Child Day Habilitation cannot be authorized concurrently with Community Integration within the same person-centered service plan;
  - (2) Child Day Habilitation is available for participants living in their private family residence who are under 21 years of age;
  - (3) The rates for this service do not include the basic cost of childcare unrelated to a child's disability;
  - (4) Child Day Habilitation only covers necessary services and supports associated with the child's physical, medical, personal care, or behavioral needs not included in regular childcare;
  - (5) Child Day Habilitation cannot exceed a weekly amount of 70 hours for participants living in their private family residence. A week is defined as 12:00 AM Monday through 11:59 PM Sunday;
  - (6) Child Day Habilitation is reimbursed at an hourly rate;
  - (7) Child Day Habilitation may be provided by a relative who is not legally responsible for the participant; and
  - (8) This service cannot be provided during school hours set by the local school district for the participant.

004.02(B)(ii) ELIGIBLE PROVIDER TYPES. This service may be provided by Certified or Independent Providers.

004.02(C) COMMUNITY INTEGRATION. Community Integration is a habilitative service.

- 004.02(C)(i) LIMITATIONS. The following limitations apply to Community Integration:
- (1) This service may be authorized in combination with Day Supports service in the same person-centered service plan, but the service may not be provided and billed for concurrently. The total combined hours for these services may not exceed a weekly amount of 35 hours. A week is defined as 12:00 am Monday through 11:59 pm Sunday;
  - (2) Participants may not perform paid work activities or unpaid activities in which others are typically paid, but may perform hobbies in which minimal money is received or volunteer activities;

- (3) Participants receiving Community Integration cannot receive Child Day Habilitation;
- (4) Community Integration is reimbursed at an hourly rate. The Community Integration provider is in the community providing a combination of habilitation supports, protective oversight, and supervision to bill in hourly units;
- (5) Transportation required in the provision of Community Integration is included in the rate. Non-medical transportation to the site at which Community Integration begins is not included in the rate. Non-medical transportation from the site at which Community Integration ends is not included in the rate; and
- (6) This service cannot be provided during school hours set by the local school district for the participant. This limitation includes any and all public education programs funded under the Individuals with Disabilities Education Act (IDEA). Regular school hours and days apply for a child who receives home schooling.

004.02(C)(ii) ELIGIBLE PROVIDER TYPES. This service may be provided by Certified or Independent Providers.

004.02(D) DAY SUPPORT. Day Support Services provide person-centered activities. Day Support services are regularly scheduled activities, formalized training, and staff supports for the acquisition, retention, or improvement in:

- (1) Self-help;
- (2) Behavioral skills;
- (3) Adaptive skills;
- (4) Social development;
- (5) Activities of daily living (ADL); and
- (6) Community living.

004.06(D)(i) LIMITATIONS. The following limitations apply to Day Support.

- (1) This service may be authorized in combination with Community Integration service in the same person-centered service plan. The total combined hours for these services may not exceed a weekly amount of 35 hours;
- (2) Day Support may not provide for the payment of services that are vocational in nature (i.e., for the primary purpose of producing goods or performing services);
- (3) Day Support is reimbursed at an hourly rate;
- (4) Transportation to and from the Day Support setting to integrated community activities during the Day Support service hours is included in the reimbursement rate. When the provider transports participants, the provider must ensure that all participants are transported in a safe and comfortable manner that meets the needs of each participant;
- (5) This service cannot be provided during school hours set by the local school district for the participant. This limitation includes any, and all public education programs funded under the Individuals with Disabilities Education Act (IDEA). Regular school hours and days apply for a child who receives home schooling; and
- (6) This service must not overlap with, supplant, or duplicate other comparable services provided through Medicaid State Plan or Home and Community-Based Waiver services, or Vocational Rehabilitation programs.



004.02(D)(ii) ELIGIBLE PROVIDER TYPES. This service may be provided by Certified Providers.

004.02(E) ENVIRONMENTAL MODIFICATION ASSESSMENT. Is used to enable a participant to integrate more fully into the community while ensuring the health, welfare and safety of a participant

004.04(E)(i) LIMITATIONS. The following limitations apply to Environmental Modification Assessment:

- (1) The amount of prior authorized services is based on the participant's need as documented in the participant's person-centered service plan, and within the participant's approved annual budget;
- (2) Environmental Modification Assessment is reimbursed at a flat rate per completed assessment not to exceed the amount charged to the general public; and
- (3) Environmental Modification Assessments may be provided by a relative but not a person legally responsible for the participant.

004.02(E)(ii) ELIGIBLE PROVIDER TYPES. This service may be provided by Certified or Independent Providers.

004.02(F) FAMILY CAREGIVER TRAINING. Provides individualized training and education to the unpaid caregiver currently living in the family home to assist in understanding and addressing the participants' needs by building upon their own skills. Family Caregiver Training service may address such areas as:

- (1) Understanding the disability of the participant supported;
- (2) Achieving greater competence and confidence in providing support;
- (3) Developing or enhancing key parenting strategies;
- (4) Other areas so that the unpaid caregiver can most effectively support the participant's desired goals and outcomes as described in the person-centered service plan.

004.02(F)(i) LIMITATIONS. The following limitations apply to Family Caregiver Training:

- (1) The amount of prior authorized services is based on the participant's need as documented in the person-centered service plan and within the participant's approved annual budget;
- (2) Educational and training programs, workshops, and conference registration costs for the unpaid caregiver is limited up to \$500.00 per annual budget year;
- (3) This service may not be provided in order to train or educate paid caregivers; and
- (4) This service must not overlap with, supplant, or duplicate other comparable services provided through the Medicaid State plan, including Early and Periodic Screening, Diagnosis, and Treatment (EPSDT), or Home and Community-Based Services (HCBS) Waiver.

004.02(F)(ii) ELIGIBLE PROVIDER TYPES. This service may be provided by Certified Providers.

004.02(G) FAMILY AND PEER MENTORING. Provides mentors who have shared experiences with the participant, the family, or both, that will provide support and guidance by sharing experiences, strategies, and resources. Family and Peer Mentoring may not be self-directed.

004.02(G)(i) LIMITATIONS. The following limitations apply to Family and Peer Monitoring:

- (1) The amount of prior authorized services is based on the participant's need as documented in the person-centered service plan, and within the participant's approved annual budget;
- (2) Family and Peer Mentoring is billed at an hourly rate;
- (3) Mentors cannot mentor their own family members;
- (4) Mentors cannot mentor other unpaid caregivers who reside in the family home;
- (5) Transportation during the provision of Family and Peer Mentoring is included in the rate. Non-medical transportation to the site at which Family and Peer Mentoring begins is not included in the rate. Non-medical transportation from the site at which Family and Peer Mentoring ends is not included in the rate; and
- (6) This service must not overlap with, supplant, or duplicate other comparable services provided through the Medicaid State plan, including EPSDT, or Medicaid Home and Community-Based Services (HCBS) Waiver.

004.02(B)(ii) ELIGIBLE PROVIDER TYPES. This service may be provided by Certified Providers.

004.02(H) HOME MODIFICATIONS. Home Modifications are provided within the current footprint of the participant's residence. Such modifications include, but are not limited to, Installation of ramps, widening of doorways, modifications of bathroom facilities, and installation of specialized electric and plumbing systems that are necessary to accommodate the medical equipment and supplies that are necessary for the welfare of the participant.

004.02(H)(i) LIMITATIONS. The following limitations apply to Home Modifications:

- (1) The Department may require an on-site assessment of the environmental concern including an evaluation of functional necessity with appropriate Medicaid enrolled professional providers. Division of Developmental Disabilities (DDD) may use a third party to assess the proposed modification and the need for the adaptation to ensure cost-effectiveness and quality of product. This assessment will be funded by the Environmental Modification Assessment service, and will be reimbursed separately;
- (2) The amount of prior authorized services is based on the participant's need as documented in the service plan, and within the participant's approved annual budget;
- (3) Proof of renter's insurance or homeowner's insurance may be requested;
- (4) Evidence of application to secure government-subsidized housing through the U.S. Department of Housing and Urban Development or other Economic Assistance programs may be requested;

- (5) Home Modifications may be provided by a relative but not a person legally responsible for the participant; and
- (6) The services under this Waiver are limited to additional services not otherwise covered under the Medicaid State Plan, including Early and Periodic Screening, Diagnosis and Treatment (EPSDT), but consistent with Waiver objectives of avoiding institutionalization.

004.02(H)(ii) ELIGIBLE PROVIDER TYPES. This service may be provided by Certified or Independent Providers.

004.02(I) HOMEMAKER. The performance of general household activities that does not include direct-care supervision.

004.02(I)(i) LIMITATIONS. The following limitations apply to Homemaker:

- (1) Homemaker has an annual cap of 520 hours;
- (2) Homemaker and Independent Living cannot be authorized concurrently within the same person-centered service plan;
- (3) Homemaker cannot duplicate or replace other supports available to the participant, including natural supports;
- (4) Homemaker is reimbursed at an hourly rate;
- (5) Transportation is not included in the reimbursement rate; and
- (6) Homemaker requires the provider to use Electronic Visit Verification (EVV).

004.02(I)(ii) ELIGIBLE PROVIDER TYPES. This service may be provided by Certified or Independent Providers.

004.02(J) INDEPENDENT LIVING. Independent Living is provided in the participant's private home not in a residence owned or leased, operated, or controlled by a provider. Independent Living is a habilitative service providing individually tailored intermittent supports for a Waiver participant, which assists with the acquisition, retention, or improvement in skills related to living in their own private home and community.

004.02(J)(i) LIMITATIONS. The following limitations apply to Independent Living:

- (1) Independent Living and Supported Family Living cannot be authorized concurrently within the same person-centered service plan;
- (2) Independent Living is available for participants who are 19 years and older;
- (3) Independent Living is provided in the participant's private home, not a provider-owned or leased, operated, or controlled residence;
- (4) Independent Living may be provided to one, two, or three participants, based on the participants' assessed needs;
- (5) The amount of prior authorized services is based on the participant's need as documented in the person-centered service plan, and within the participant's approved annual budget;
- (6) Independent Living is reimbursed at an hourly rate;
- (7) Independent Living is provided to an awake participant who requires less than 24-hours of support a day;
- (8) Independent Living cannot exceed a weekly amount of 70 hours. A week is defined as 12:00 AM Monday through 11:59 PM Sunday;

- (9) The rate structure for this service is determined based on the group size. Group sizes of one, two, or three are based on the participant's assessed needs;
- (10) Independent Living requires the provider use Electronic Visit Verification (EVV); and
- (11) Participants receiving Independent Living cannot have an active service authorization for Respite or Homemaker.

004.02(J)(ii) ELIGIBLE PROVIDER TYPES. This service may be provided by Certified or Independent Providers.

004.02(K) PARTICIPANT-DIRECTED GOODS AND SERVICES. Participant-Directed Goods include equipment or supplies that enable the participant to maintain or increase independence and promote opportunities for community living and inclusion. Participant-Directed Goods may be self-directed.

004.02(K)(i) RESTRICTIONS. Participant-Directed Goods may not be used for the following:

- (1) Personal items not related to the participant's intellectual disability or developmental disability;
- (2) Experimental or prohibited treatments (i.e., herbal supplements, shock therapy, clinical trials);
- (3) Co-payment for medical services, over-the-counter medications, or homeopathic services;
- (4) Training provided to paid or unpaid caregivers;
- (5) Cost of travel, meals, and overnight lodging to attend training or conferences;
- (6) Entertainment activities, including vacation expenses, food, alcohol, using tobacco or nicotine products, movie tickets, subscriptions, televisions and related equipment, and other items as determined by the Division of Developmental Disabilities (DDD);
- (7) Expenses related to routine daily living, including groceries, rent or mortgage payments, utility payments, home maintenance, gifts, pets or other animals, insurance, vehicle maintenance, or any other transportation-related costs, self-employment/business-related expenses, and other items determined by Division of Developmental Disabilities (DDD);
- (8) Equipment, supplies, or items that the participant has the funds to purchase; or
- (9) Equipment, supplies, or items that are excluded from receiving Federal Financial Participation, including, but not limited to, room and board payments.

004.02(K)(ii) LIMITATIONS. The following limitations apply to Participant-Directed Goods and Services:

- (1) The amount of prior authorized services is based on the participant's need as documented in the person-centered service plan, and within the participant's approved annual budget;
- (2) Participant-Directed Goods must not otherwise be provided through other services offered in this Waiver;

- (3) Providers shall not exceed their charges to the general public when billing the Waiver. A provider who offers a discount to certain individuals (for example, students, senior citizens, etc.) shall apply the same discount to the participants who would otherwise qualify for the discount; and
- (4) This service shall not overlap with, supplant, or duplicate other comparable services provided through the Medicaid State Plan, including Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) or Medicaid Home and Community-Based Services (HCBS) Waiver.

004.02(K)(iii) ELIGIBLE PROVIDER TYPES. This service may be provided by Certified Providers.

004.02(L) PERSONAL EMERGENCY RESPONSE SYSTEM (PERS). Enables participants to secure help in an emergency.

004.02(L)(i) LIMITATIONS. The following limitations apply to Personal Emergency Response System (PERS):

- (1) Personal Emergency Response System (PERS) cannot be authorized for a participant who resides in a residence that is provider-owned or leased, operated, or controlled;
- (2) The amount of prior authorized services is based on the participant's need as documented in the participant's person-centered service plan, and within the participant's approved annual budget;
- (3) Personal Emergency Response System (PERS) is reimbursed as a monthly rental fee or as a one-time installation fee; and
- (4) This service must not overlap with, supplant, or duplicate other comparable services provided through the Medicaid State Plan or Medicaid Home and Community-Based Services (HCBS) Waiver.

004.02(L)(ii) ELIGIBLE PROVIDER TYPES. This service may be provided by Certified Providers.

004.02(M) RESPITE. Respite includes assistance with activities of daily living (ADL), health maintenance, and supervision.

004.02(M)(i) LIMITATIONS. The following limitations apply to Respite:

- (1) The amount of prior authorized services is based on the participant's need as documented in the person-centered service plan, and within the participant's approved annual budget;
- (2) Respite provided in an institutional setting requires prior approval by the Department and is authorized only when no other option is available;
- (3) Respite is reimbursed at an hourly rate;
- (4) Any use of respite over eight hours within a 24-hour period is not reimbursable;
- (5) Federal financial participation must not be claimed for the cost of room and board except when provided as a part of respite care furnished in a facility approved by Division of Developmental Disabilities (DDD) and not a private residence;

- (6) Respite must not be provided during the school hours set by the local school district for the participant. Regular school hours and days apply for a child who receives home schooling;
- (7) Respite must not be provided concurrently with other Medicaid Home and Community-Based Services (HCBS) Waiver;
- (8) Respite must not be provided by any independent provider who lives in the same private residence as the participant or is a person legally responsible for the participant; and
- (9) A Respite provider or provider staff must not provide respite to children and adults (18 years and older) at the same time and location, unless approved by Division of Developmental Disabilities (DDD) Central Office.

004.02(M)(ii) ELIGIBLE PROVIDER TYPES. This service may be provided by Certified or Independent Providers.

004.02(N) SUPPORTED FAMILY LIVING. Supported Family Living is a habilitative service that provides individually tailored intermittent teaching and supports to assist with the acquisition, retention, or improvement in skills related to living in the community. Supported Family Living includes adaptive skill development necessary to enable the participant to live in the most integrated setting appropriate to their needs. Providers of Supported Family Living generally do not perform these activities for the participant, except when not performing the activities pose a risk to the participant's health and safety. Supported Family Living is provided to the participant in the participant's family home, not a provider-owned or leased, operated, or controlled setting. A participant can choose to receive a portion of this service virtually. The participant must live with relatives in their private family home.

004.02(N)(i) LIMITATIONS. The following limitations apply to Supported Family Living:

- (1) The total combined hours for virtual supports may not exceed a weekly amount of 10 hours and are included as part of the currently existing limit of 70 hours per week of services provided during the day;
- (2) Use of virtual supports must be a person-centered decision and facilitate community integration and not risk leading to the isolation of the participant from the community or from interacting with other people;
- (3) The amount of prior authorized services is based on the participant's need as documented in the participant's service plan, and within the participant's approved annual budget;
- (4) Supported Family Living is reimbursed at an hourly rate and the provider must use Electronic Visit Verification (EVV);
- (5) Supported Family Living cannot exceed a weekly amount of 70 hours; and
- (6) This service must not overlap with, supplant, or duplicate other comparable services provided through the Medicaid State Plan or Medicaid Home and Community-Based Services (HCBS) Waiver.

004.02(N)(ii) ELIGIBLE PROVIDER TYPES. This service may be provided by Certified or Independent Providers.

004.02(O) TRANSPORTATION. Transportation is a service designed to foster greater independence and personal choice. Transportation enables participants to gain access to

Waiver services, community activities, and resources, as specified by the participant's service plan. Transportation is not intended to replace formal or informal transportation options, such as the use of natural supports.

004.02(O)(i) LIMITATIONS. The following limitations apply to Transportation:

- (1) This service does not include transportation to medical appointments available under the Medicaid State Plan or other federal and state transportation programs;
- (2) This service does not include transportation to the site at which Child Day Habilitation begins and from the site at which Child Day Habilitation ends and is the primary caregiver's responsibility;
- (3) Transportation is provided for a Waiver participant to get to and from a location only using the most direct route;
- (4) Transportation is reimbursed per mile or cost of a bus pass;
- (5) Transportation may be provided by a relative but not a person legally responsible for the participant;
- (6) Agency provider mileage rate must not exceed the rate of reimbursement pursuant to Neb. Rev. Stat. § 81-1176 multiplied by three;
- (7) Individual provider mileage rate is paid at the mileage rate of reimbursement pursuant to Neb. Rev. Stat. § 81-1176;
- (8) The public transportation rate must not exceed purchase price by the public; and
- (9) This service must not overlap with, supplant, or duplicate other comparable services provided through the Medicaid State Plan or Medicaid Home and Community-Based Services (HCBS) Waiver.

004.02(O)(ii) ELIGIBLE PROVIDER TYPES. This service may be provided by Certified or Independent Providers.

004.02(P) VEHICLE MODIFICATIONS. Vehicle Modifications are specified by the service plan as necessary to enable the participant to integrate more fully into the community and to ensure the health, welfare, and safety of the participant.

004.02(P)(i) LIMITATIONS. The following limitations apply to Vehicle Modifications:

- (1) Vehicle Modifications have a budget cap of \$10,000 per five-year period;
- (2) Division of Developmental Disabilities (DDD) may require an on-site assessment of the environmental concern including an evaluation of functional necessity with appropriate Medicaid enrolled professional providers. Division of Developmental Disabilities (DDD) may use a third party to assess the proposed modification and need for the modification to ensure cost effectiveness and quality of product. This assessment will be funded by the Environmental Modification Assessment service and will be reimbursed separately. The cost of the Environmental Modification Assessment is not included in the \$10,000 budget cap for Vehicle Modifications;
- (3) The amount of prior authorized services is based on the participant's need as documented in the participant's person-centered service plan, and within the participant's approved annual budget;
- (4) Proof of vehicle insurance may be requested;

- (5) Providers must not exceed their charges to the public when billing the Waiver. A provider who offers a discount to certain individuals (for example, students, senior citizens, etc.) must apply the same discount to the participants who would otherwise qualify for the discount;
- (6) When the vehicle is leased, the modification is transferrable to the next vehicle; and
- (7) This service must not overlap with, supplant, or duplicate other comparable services provided through the Medicaid State Plan or Medicaid Home and Community-Based Services (HCBS) Waiver.

004.02P(ii) ELIGIBLE PROVIDER TYPES. This service may be provided by Certified Providers.

005. LEVEL OF CARE. To receive services an individual must meet the Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) Level of Care as outlined in Title 403 NAC 2

006. FUNDING. The Family Support Waiver has an annual cap of \$10,000.

006.01 AUTHORIZED FUNDING. The Department will not authorize any funding or service for which the child's school system is responsible. Children's Waiver services are not available during school hours, as set by the local public school district even if the participant is home-schooled, and days for children receiving shortened school days, special education services in the family home or away from the school building.

006.02 WAIVER NOT FURNISHED. Waiver services will not be furnished to a child while they are an inpatient of a hospital, nursing facility, or ICF. Room and board will not be included as a cost that is reimbursed under the Family Support Waiver.

006.03 ALTERNATIVE COMPLIANCE. Alternative Compliance will not be allowed for services offered under the Family Support Waiver.

006.04 EXCEPTIONS. No exceptions of funding will be granted for services offered under the Family Support Waiver.

007. PROVIDER STANDARDS. These are the standards and conditions that all persons who provide services must meet.

007.01 PROVIDER REQUIREMENTS. To participate in Nebraska Medicaid, providers of Home and Community-Based Waiver services must comply with all applicable provider participation requirements identified in 471 Nebraska Administrative Code (NAC) Chapters 1, 2, and 3.

007.02 RECORD KEEPING. Providers of Waiver services must maintain the following materials for six years:



- (A) Documentation that supports the selection and provision of services under the Individual Support Plan, also referred to as Person-Centered Plan, to each child, including dates of service provision and identification of provider;
- (B) Financial information necessary to allow for an independent audit;
- (C) Documentation that supports requests for payment; and
- (D) Provider agreements.

008. ANNUAL ENROLLMENT OF FAMILY SUPPORT WAIVER SERVICE PROVIDERS. A person proposing to provide family Waiver services must enroll annually.

008.01 SERVICE PROVIDER AGREEMENT. If the chosen provider meets the required applicable standards identified in 471 NAC 1, 2, and 3, the Department will enter into a provider agreement with the provider using the:

- (A) Service Provider Agreement;
- (B) Service Provider Addendum;
- (C) Approved Family Child Care Home Self-Certification Checklist or In-Home Child Care Self-Certification Checklist, when applicable;
- (D) IRS Form W-9, "Request for Taxpayer Identification Number and Certification"; and
- (E) Range of rates established by the Department.

008.02 DEPARTMENT STAFF RELATIVES AS PROVIDERS. Department staff must not approve, reapprove, evaluate, or negotiate provider agreements with, or authorize service provision from, providers to whom the Department staff person is related. In situations where a Department staff person's relative is the only resource, staff must obtain approval from the Service Area Administrator or designee.

009. REPORTS OF ABUSE OR NEGLECT.

009.01 ANNUAL PROVIDER AGREEMENT. Before entering into an annual provider agreement with individuals providing homemaker services involving direct individual contact, respite, or habilitative childcare, the Department will complete a check of the:

- (A) Central Register of Child Protection Cases;
- (B) Adult Protective Services Central Registry;
- (C) The Department's License Information System; and
- (D) Nebraska State Patrol Sex Offender Registry.

009.02 CHECKING SOURCES. The following persons must sign a statement agreeing to a check of the sources listed above in 009.01:

- (A) A person applying to be a provider of family services, before approval;
- (B) A provider of homemaker, respite, child day habilitation services, supported family living, or independent living, annually; and
- (C) Any member of the provider's household if services will be provided in the provider's home, before approval, and annually thereafter.

009.03 BACKGROUND REGISTRY REPORTS. The Department will not authorize a person to provide family support Waiver services if:

- (A) The person has a substantiated report on the Adult Protective Services Central Registry;

- (B) The person has a substantiated report on the Central Register of Child Protection Cases;
- (C) The person is on the Nebraska Sex Offender Registry; or
- (D) The Department receives a substantiated report on the Adult Protective Services Central Registry or a substantiated report on the Central Register of Child Protection Cases on a current Waiver provider or household member when services are in the provider's home, the Department will immediately terminate the provider authorization.

#### 010. CRIMINAL HISTORY.

010.01 FELONY OR MISDEMEANOR STATEMENTS. The Department will deny or terminate the provider approval of an applicant or provider who refuses to sign a release of information. The following persons must sign a statement giving information about current charges, pending indictments, and convictions for felony or misdemeanor actions:

- (A) A person applying to be a provider of family services, before approval;
- (B) A provider of family support Waiver services, annually; and
- (C) Any member of the provider's household if services will be provided in the provider's home, before approval, and annually thereafter.

010.02 FOLLOW-UP INFORMATION. If additional information is needed to evaluate the criminal history of the provider or household member, the Department will:

- (A) Obtain a release of information from the provider or household member; and
- (B) Request available information from law enforcement.

010.03 DENIAL OR TERMINATION OF PROVIDER CERTIFICATION. Providers may not allow employees or independent contractors to work with participants served by the provider when charges are pending disposition or the employee or independent contractor has been convicted of a disqualifying crime. Please refer to Title 404 NAC 4-003.02 for the listed crimes.

010.04 PROVIDER'S RIGHT TO CONTEST A DECISION. A provider of family Waiver services has the right to appeal for a hearing of an action that has a direct adverse effect on the provider. See 471 NAC 2. Hearings are scheduled and conducted according to the procedures set forth in 465 NAC 6.

TITLE 403 MEDICAID HOME AND COMMUNITY-BASED WAIVER SERVICES (HCBS) FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

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