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NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

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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:

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

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

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

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.

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

003.04 AGENCY PROVIDER. An Agency Provider is an agency, organization, association, or other entity that the Department has certified as meeting certification and accreditation requirements under applicable state statutes and regulations.

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

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

003.07 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.

003.08 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.

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

003.10 BEHAVIOR SUPPORT PLAN (BSP). A written strategy, based on person-centered planning and a Functional Behavioral Assessment, 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.

003.11 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.

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

003.13 COMMUNITY INCLUSION. The opportunity for an individual with a developmental disability to live and interact in community settings where individuals without disabilities are present.

003.14 COMPETITIVE INTEGRATED EMPLOYMENT. Competitive integrated employment is 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).

003.15 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.

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

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

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

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.

003.25 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.

003.26 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.

003.27 HOME MODIFICATIONS. Physical alterations to a participant's residence 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.

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

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

003.32 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.

003.33 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.

003.34 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.

003.35 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.

003.36 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.

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

- 1) Is primarily for the diagnosis, treatment, or rehabilitation of the intellectually disabled or individuals with related conditions; and
- 2) 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.

003.38 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.

003.39 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.

003.40 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:

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

003.41 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 through participation in clubs, organizations, and other community activities.

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

003.43 OBJECTIVE ASSESMENT 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.

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

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

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

003.47 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.

003.48 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.

003.49 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.

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

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

003.52 RESIDENTIAL HABILITATION. 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 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.

003.53 RESPITE. 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.

003.54 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.

003.55 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.

003.56 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.

003.56(B) 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.

003.56(C) 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.

003.57 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).

003.58 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.

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003.59 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.

003.60 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.

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