

Disability Rights Nebraska

Protection and Advocacy for People with Disabilities

Comments on The Proposed Changes to The Comprehensive (CDD) and Adult Day (DDAD) Waivers

April 2, 2021

Brad Meurrens
Disability Rights Nebraska

We appreciate this opportunity to provide comment on the proposed Changes to The Comprehensive (CDD) and Adult Day (DDAD) Waivers.

CDD Waiver comments:

We applaud the additional language prescribing providers' written policies for the use of restrictive interventions or practices. We further support the formation of a rights review committee. However, we do have concerns in this area.

1. The frequency of the rights review committee meeting is too long. The proposed changes add that the committee meets at least semi-annually. We would recommend that the committee be required to meet more frequently. If the purpose of the committee is to protect the rights of participants against provider policies, only having a review every 6 months would seemingly allow rights violations to go unnoticed or without account for a significant amount of time. Furthermore, this frequency (and the language in the proposal itself) would not permit a timely review of an interim approval of a restriction.
2. We are concerned that restrictions using psychotropic medications only happens semi-annually. Again, a review of such a significant restriction should be done more frequently and recurring. We also note that restrictions that do not involve psychotropic medications only get review annually. Since restrictions categorically involve the rights of participants, these are not restrictions that should be taken lightly or reviewed casually.
3. The membership of the rights review committee should reflect more participant input and participation. The proposed changes allow for at least half of the committee to be comprised of 3 categories: participants, family, or interested persons. This dilutes the capacity for direct participant participation to one-third of one-half. Who comprises the other half? The committee must have more representation from the individuals directly affected by its decisions and outcomes.

4. The added assistive technology language is too limiting. We would suggest:
 - a. “ Assistive Technology is equipment or a product system such as devices, controls, or appliances, whether acquired commercially, modified, or customized, used to increase, maintain, or improve functional capabilities of participants and be necessary to ensure participants health, welfare, and safety. The use of assistive technology must be of direct medical or physical benefit to enable 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 paid and natural supports because of limitations due to disability.” (pg. 78)
5. We applaud the additional language stating that participants can choose and invite individuals to participate in the service planning process. However, the language seems to indicate that once the planning process is completed, the plan and any subsequent changes must be approved by these other interested and invited individuals, not the participant:

“Team members support the participant to have the life they want by discussing and reviewing with the participant: supporting documents; communicating objections to the service plan; approving the service plan by signing the service plan; and approving changes or modifications to the service plan or support documents throughout the year, when needed.” (pg. 185)

Furthermore, the placement of the phrase “the life they want” is ambiguous. Is it the life the participant wants or the life the interested individuals want? This paragraph must be entirely rewritten.

DDAD Waiver comments:

1. We applaud the additional language stating that participants can choose and invite individuals to participate in the service planning process. However, the language seems to indicate that once the planning process is completed, the plan and any subsequent changes must be approved by these other interested and invited individuals, not the participant:

“Team members support the participant to have the life they want by discussing and reviewing with the participant: supporting documents; communicating objections to the service plan; approving the service plan by signing the service plan; and

approving changes or modifications to the service plan or support documents throughout the year, when needed.” (pg. 185)

Furthermore, the placement of the phrase “the life they want” is ambiguous. Is it the life the participant wants or the life the interested individuals want? This paragraph must be entirely rewritten.

For further information or questions, please contact me at brad@drne.org or (402) 474-3183.