

Disability Rights Nebraska

Protection and Advocacy for People with Disabilities

April 27, 2020

VIA EMAIL

Chief of Staff Emily Dodson
Director Tony Green, Division of Developmental Disabilities
Nebraska Department of Health and Human Services
301 Centennial Mall S.
Lincoln NE 68508

Dear Chief of Staff Dodson and Director Green:

Thank you again for taking the time to speak with me recently about the state's response to COVID-19 and protecting the most vulnerable Nebraskans with disabilities in the pandemic.

MEDICAL RATIONING

In our call, we discussed the concerns raised by other states' discriminatory policies that had categorical exclusions for people with disabilities in the event of a medical shortage such as inadequate number of ventilators. The Office of Civil Rights has provided guidance¹ indicating such policies violate federal laws such as the ADA and Section 504. At this time, Nebraska has no statewide healthcare crisis standards, leaving each hospital up to its own choices. When we talked, you indicated there may be a policy in the works—or at least a statewide reminder of the OCR guidance—and that you would review this with other staff and have an answer for us shortly. We'd like the chance to set up time to speak with you again to learn what is in progress on this important issue.

DISSEMINATION OF INFORMATION

In the event the state does create a guidance document for hospitals, we discussed the mechanism by which such information could be disseminated statewide. Is there a listserv or email function to reach every medical provider quickly with an update of this nature? You indicated you would be inquiring with other staff and able to tell us in the next call.

As you'll see below, this same information dissemination question has emerged around providing guidance to other entities besides hospitals—we'd like to learn more about how information is provided to Assisted Living Facilities, nursing homes, and licensed agencies providing support to adults with mental illness and other disabilities, as well.

¹ <https://www.hhs.gov/about/news/2020/03/28/ocr-issues-bulletin-on-civil-rights-laws-and-hipaa-flexibilities-that-apply-during-the-covid-19-emergency.html>

SURVEY OF COVID-19 NEEDS

As we discussed during our last call, Disability Rights Nebraska has been monitoring conditions in facilities statewide to determine their policies and practices to address COVID-19. To date, we have interviewed leadership and frontline staff in over fifty facilities at the time of this letter, ranging from large psychiatric hospitals to day programs for people with developmental disabilities to assisted living facilities providing homes for adults living with a mental health diagnosis. We've spoken to locations in every corner of the state—from Scottsbluff to Omaha to Norfolk to Grand Island. Several clear trends of concerns have arisen that we write to share with you: (1) Basic needs acquiring PPE and food, (2) Funding concerns, (3) Staffing concerns, and (4) Technology barriers in providing telehealth and support.

Basic Needs Identified: PPE and Food

Many of the agencies serving people with developmental disabilities spoke very highly about access to regular helpful calls with the Division of Developmental Disabilities, including transparency with interactive events such as the Facebook Live talk. They also spoke gratefully about a website that offered aid in locating basic PPE or other supplies. For the most part, these agencies had access to everything they needed—even N95 masks—with a few needs mentioned during our surveys:

- Black Hills in Bellevue has masks on back order.
- ENCOR of Omaha awaiting disposable masks they've ordered.
- Mid Nebraska Individual Services of Hastings awaiting ordered gowns, needs more hand sanitizer.
- Mosaic in Beatrice needs N95 masks and hand sanitizer.
- Northstar in Wayne awaiting gowns from order.
- Region V in Crete has face shields and gowns on order.
- Region V in Fairbury needs gloves.
- Region V in Gretna has no overgarments available.
- VODEC in Omaha needs PPE, particularly masks.

In contrast, many of the agencies providing services for adults with mental illness were significantly struggling to locate reliable information from the state and further had critical PPE gaps and even food insecurity. The exception was when an agency was part of a larger nationwide corporation that was providing direct information and supply lines. For example,

- Central Assisted Living in Central City lacks masks and has run into food issues due to limits their nearest Walmart has placed on the number of milk jugs or loaves of bread that can be purchased by an individual.
- Community Transitions in Lincoln needs nearly all the PPE staples, currently only using homemade masks made by volunteers in the community.

- English Gardens of OUR Homes in Lincoln is considering using newborn Pampers in the absence of any other mask options, needs wipes, needs hand sanitizers, and currently is not taking temperatures of residents or staff—it is unclear if that is due to a lack of thermometers.
- Golden Manor of Omaha only has homemade masks donated by community.
- OMNI Behavior Health of Omaha needs all PPE and thermometers.
- Opportunity House in Hastings has only homemade masks.
- Prescott Place in Lincoln is struggling with grocery store limits on items, necessitating staff to travel to multiple stores and increase their exposure.
- Shiloh Place in Fremont similarly struggles to continue to feed their clients with grocery store limits

Funding Concerns

We repeatedly heard concerns about funding being affected due to the change in services being provided. It appears that there has been some relief to the agencies providing services for Nebraskans with developmental disabilities, but it is unclear whether agencies providing services for Nebraskans with mental illness have had any similar change. Agencies large and small across the state told us they were concerned they wouldn't make payroll and would have to start laying off staff soon. They were not able to envision what would happen to the consumers and clients in their care in that scenario. If the Department currently has a contingency plan in place for this eventuality, we invite you to share that with us and with the providers experiencing concern.

Staffing Concerns

Particularly in greater Nebraska, agencies asked whether the state could offer help in locating reliable new staff in the event of current staff becoming ill themselves. One agency noted "I don't think there are any staffing agencies out in my part of the state, but maybe the unemployment office could help match us to staff we wouldn't otherwise know how to find?" Another suggested that if funding made hazard pay available for frontline staff, they would be ensured of maintaining appropriate staff ratios. Many agencies did not yet find themselves at a shortage at this time—by closing day services, for example, they could repurpose their staff into providing support in the residential context. The staffing concerns were fears for the future without a clear path forward.

Technology Barriers to Providing Services

As with the PPE, many of the agencies serving people with developmental disabilities are adequately staffed and are providing face to face home based therapy, support, and social interaction with their clients. In contrast, the agencies serving people with mental illness who have shut down day programs struggle to connect with their clients who are not living with them. Many of their clients do not have access to a computer to use

telehealth for maintaining therapeutic connections. Even basic phone access is an issue, as many agencies reported their clients are using a Trac Phone (i.e., a pay-as-you-go cell phone) with very limited minutes that cannot be used for virtual attendance in a therapy session or simple wellness check.

POSSIBLE SOLUTIONS

The snapshot of needs above is purely anecdotal evidence of the need across the state, since we have not spoken to every provider in every community, but they point to repeated themes that may suggest the following potential solutions:

- Statewide hotline for service providers to connect with DHHS about needs
- Ensure that the information being provided to DD agencies is also being made available to MH agencies
- Have the Division of Behavioral Health mimic the information sessions offered by the Division of Developmental Disabilities
- Purchasing help or sourcing help for critical PPE supplies
- Access to supplies being made by Cornhusker Industries such as hand sanitizer, masks, etc.
- Documentation from the state that could be shown to local grocery stores to waive purchase limits for those smaller agencies that cannot contract with a food supplier
- Staffing help for any agencies facing shortages, possibly with the collaboration of the Nebraska Workforce Development
- Create a roundtable of experts to explore how telehealth interruptions in a pandemic or other crisis can be addressed in the future

NEXT STEPS

Given the disparity in preparedness and available supplies between the providers under the Division of Developmental Disabilities and the Division of Behavioral Health, we would suggest in our next conversation that the Department identify the appropriate person within Behavioral Health to speak with you about these issues. We welcome the opportunity to speak with you about these issues and are available anytime. Thank you for the work you are doing to provide assistance to Nebraskans during these unprecedented times.



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cc: CEO Dannette Smith
CEO Eric Evans