

# **Report on Nebraska Revised Statute §81-3134**

## **Access to Services for Individuals with Co-occurring Conditions**

### **Department of Health and Human Services**

Nebraska Revised Statute §81-3134 (LB 1160, Section 19), requires a report to the Health and Human Services Committee of the Legislature and the Developmental Disabilities Special Investigative Committee of the Legislature concerning the access of individuals with co-occurring conditions of an intellectual disability and mental illness to the full array of services needed to appropriately treat their specific conditions.

#### **(1) Summary of individuals currently served, including eligibility determinations**

The Department of Health and Human Services (DHHS) serves children and adults with a co-occurring condition of developmental disability and mental illness through four Divisions: the Division of Developmental Disabilities (DD), the Division of Medicaid and Long-Term Care (MLTC), the Division of Behavioral Health (BH) and the Division of Children and Family Services (CFS). As such, DHHS has multiple entry points for individuals with co-occurring conditions. Entry varies by eligibility, need, knowledge of the system, referral sources and processes.

For example, access to services may include the submission of a Medicaid application via ACCESSNebraska, with eligibility determined by CFS; referral of an individual for developmental disability services provided by DD; and/or children involved in an assessment for child welfare services or through the Office of Juvenile Services through CFS. Access with BH occurs by an individual or individual's family calling or presenting to a funded provider, contacting one of the Regional Behavioral Health Authority (RBHA) offices for referral and assistance or through the BH emergency system.

Collaboration on accessing and developing services occurs within the Department of Health and Human Services on a system level and on a case-by-case basis as needed. Community partners providing assistance and services often come together to discuss issues, gaps and service changes. Difficult or challenging cases are discussed on a case-by-case basis to coordinate across systems.

All agency divisions use eligibility criteria as outlined in federal and/or state law for individuals to access services.

#### ***Developmental Disabilities***

Developmental disability services are funded in part with federal dollars via three 1915 (c) Home and Community Based Services (HCBS) Medicaid Waivers managed by DD. These are the children's, adult day and adult comprehensive waivers. The DD HCBS Waivers are offered as an alternative to ICF-DD (Intermediate Care Facility for Developmental Disabilities) level of care. If the individual is not, and cannot become, Medicaid eligible, DD may offer state-only funded

services. In this case, individuals must be assessed an ability to pay amount to contribute to the cost of their services depending on their (or their family's) financial resources. First an individual must become eligible for DD services in accordance with the Developmental Disabilities Service Act (DDSA), Nebraska Revised Statute §83-1205 (1991), which defines developmental disability as an intellectual disability or a severe, chronic disability other than an intellectual disability or mental illness.

DD uses the Diagnostic and Statistical Manual (DSM-IV) definitions of intellectual disability (mental retardation) to determine whether an individual meets the statutory definition of having an intellectual disability. The DSM-IV states that generally an individual will have an Intelligence Quotient (IQ) of 70 or below with deficits in two or more areas of adaptive functioning. DD reviews evaluations and assessments completed by professionals licensed to conduct testing and to diagnose, in order to make this determination. In order for DD to determine if an individual instead has a chronic disabling condition, other than mental illness, which results in deficits in three or more areas of adaptive functioning, DD reviews records for diagnoses and relies on assessments of adaptive functioning.

Once an individual becomes eligible for developmental disability services, they have access to a DD service coordinator. If the individual is a graduate of a Nebraska high school and has completed the school year in which he or she turns 21 years of age, the individual is eligible for day services through DD. If this is a child or adult seeking residential services, the individual selects a date of need for those services, will be placed on the registry of unmet needs and will be offered services as funding becomes available. In cases of an emergency, an individual may be deemed a "priority one" for funding if he or she is in need of food, housing, clothing, medical care, protection from abuse or neglect, and protection from harm (Nebraska Revised Statute §83-1202(8)).

DD offers a variety of residential and day service options for an individual and his or her family or guardian (if applicable) to craft a support system that is individualized, based on the individual's needs and preferences. DD services are intended to be habilitative in nature where there is formalized training, teaching and maintaining of skills for an individual to become as independent in the least restrictive environment possible. As part of the three HCBS waivers managed by DD, a specialized service called Team Behavioral Consultation (TBC) is available to individual teams who are struggling with solutions for individuals who experience challenging behaviors. In addition, DD has specialized contract addendums with three certified DD providers who provide "behavioral risk" services for individuals who experience a co-occurring developmental disability and mental illness. A list of developmental disability services offered by DD is attached.

### ***Behavioral Health***

Individuals may also be served through the Nebraska Behavioral Health System that consists of the Division of Behavioral Health, Regional Networks, community based providers, and the Lincoln Regional Center. BH generally serves individuals who are not Medicaid eligible and do not have insurance. Individuals are assessed for financial eligibility in the Nebraska Behavioral Health System in accordance with BH Financial Eligibility Policy and Procedure. A sliding fee for service

may be applicable. BH will reimburse service providers for mental health and substance abuse services for consumers who meet both clinical and financial eligibility criteria. BH is the payor of last resort for behavioral health services for consumers.

BH has a developed service array for adults. The service array for youth is more limited. If an individual is found financially and clinically eligible, they may be served via a continuum of services such as assessment, crisis services, hospital services, outpatient services, rehabilitation services and other recovery services, as well as residential services. Additionally, BH serves adults with Severe and Persistent Mental Illness (SPMI) and Children with a Severe Emotional Disorder. BH does not address all behavioral health disorders such as adjustment disorder.

BH services are described in service definitions, which are a set of standards that specify requirements for services that are funded by BH. A list of services is attached. Additionally, BH has contracted with Magellan Health Services to ensure that medical necessity criteria are met for intensive services.

Regardless of eligibility, an individual may present in the BH emergency system, including through involvement with law enforcement when a person has been determined to be dangerous to self or others. The emergency system includes crisis response teams, emergency community support, and other crisis related services unique to each of the six Behavioral Health Regions. Emergency services may prevent the need for hospitalization and facilitate hospital discharge. Individuals who have presented in the emergency system may have unique plans which outline the role of DD providers serving an individual with co-occurring disabilities and emergency service providers in the event of an emergency. If an individual needs inpatient care they are served in a contracted community hospital; in some cases where an individual may not be safely served in a community hospital, the RBHA emergency system coordinator works with the hospital and the Lincoln Regional Center (LRC) to identify if an admission to LRC is necessary. The RBHA emergency system coordinators assist with discharging individuals back to the community and may work with DD service coordinators or other DD staff in developing plans for individuals with co-occurring disorders.

### ***Medicaid and Long-Term Care***

Medical and behavioral health services covered by Medicaid are provided to eligible clients when the services meet medical necessity criteria. The Division of Medicaid and Long-Term Care provides funding for Mental Health and Substance Use Disorder (MH/SUD) services through the Medicaid State Plan and the 1915(b) Waiver. Nebraska's 1915(b) Waiver includes MH/SUD services not covered under the state plan. DHHS received approval to provide Substance Use Disorder Treatment Services for Adults effective January 1, 2003 under Section 1915 (b)(3) of the Waiver. Approved services are individualized alternative or enhanced services that allow the client to be in the least restrictive and most appropriate level of care, even if those services are non-traditional. A list of Medicaid Mental Health and Substance Use Disorder (MH/SUD) services is attached.

In addition, Early Intervention Services and two Medicaid Waiver programs serve individuals with physical disabilities and traumatic brain injuries.

Early Intervention Services are provided pursuant to the Nebraska Early Intervention Act that offers families with eligible infants and toddlers with disabilities year-round service coordination and the development of an Individualized Family Service Plan (IFSP). The goal of service coordination is to provide families an early and informed start in supporting their child with a disability and to develop their own skills in accessing, utilizing and coordinating supports within the child's natural environments.

The Aged and Disabled Waiver is a HCBS Waiver that provides services across the lifespan. The waiver has been in operation since 1988 with the purpose to provide options for aged persons and adults and children with disabilities to reside in a home or community setting. Waiver services are offered as an alternative to nursing home care and eligible clients must have the same level of care needs as nursing home residents. The waiver is based on a family-centered, client-directed philosophy with an emphasis on the use of informal and natural supports in the community. The Traumatic Brain Injury Waiver is to provide up to 40 adults with traumatic brain injury client-focused waiver services to strengthen and support informal and formal services to meet the unique cognitive and behavioral needs of each client in a specialized assisted living facility setting. Both waiver programs offer service coordination and assist in getting service referrals and services established.

### ***Children and Family Services***

When a child becomes involved with the Division of Children and Family Services, workers may make a referral to DD or BH if the child is suspected of having a developmental disability or behavioral health challenges. They may also make contact with an assigned DD service coordinator if the child has already been determined eligible for developmental disability services to see if DD funded services are available. Together, the CFS caseworkers and DD service coordinators work to determine the most appropriate services for that child.

## **(2) Identification of individuals who fall in a gap or are served across divisions**

As mentioned previously, collaboration on accessing and developing services occurs within the Department of Health and Human Services on a system level and on a case-by-case basis as needed. DHHS has developed cross-divisional efforts and a continued commitment and focus on enhancing collaboration will be important for the future.

Community partners providing assistance and services also come together to discuss issues, gaps and service changes. Difficult or challenging cases are discussed on a case-by-case basis to coordinate across systems.

While DHHS is aware of anecdotal information that individuals who do not meet eligibility criteria

for one type of service may have difficulty becoming eligible for another type of service, depending on their functional needs and diagnosis, the case-by-case review does not support that this is a systemic problem. In addition, as mentioned earlier, each service has its own eligibility criteria, defined in statute or federal regulations, that must be met in order to access services.

The data collection systems utilized by each Division are unique and were developed independently, based on state and federal program requirements and specific issues of that time, which means the data is not easily integrated. However, based on the available data, the next section identifies the number of people who are served across divisions.

Without waiting lists across all Divisions, and since not all individuals attempt to interface with DHHS, we cannot know the number or universe of total Nebraskans with co-occurring needs who are without services.

### **(3) Data on Nebraskans with Co-occurring Conditions**

DHHS collected data to identify individuals who have a dual-diagnosis, or co-occurring condition, from three DHHS information system sources: N-FOCUS, Medicaid Management Information System (MMIS) and Behavioral Health.

The total numbers of people eligible for services through the Divisions are: Developmental Disabilities, 8,181 people; Behavioral Health, 35,827 people; and Medicaid and Long-Term Care, 237,543 people. Services to people with a co-occurring condition are part of the services provided by each division.

It is important to note that the identification of a person having a dual-diagnosis is based on that individual receiving services across either DD and BH or DD and MLTC Mental Health and Substance Use Disorders (MH/SUD) services. The actual diagnosis of individuals across Divisions is not available in the information systems. This following data are based on the assumption that if the person is eligible for DD services they have an identified developmental disability according to state statute and those individuals who receive BH funded services or MLTC MH/SUD services have a mental health or substance use disorder diagnosis making those services medically necessary. This assumption may not be 100% accurate and so the data presented represent the largest number of potentially eligible persons.

Individuals who received any kind of DD funded service (including DD service coordination) at any point during SFY11 or SFY12 were included in the base (n=5156).

If individuals were eligible for DD services but had no active DD service authorizations during that two year period (n=3025), they were still considered. This data were compared to data available through the Division of Behavioral Health and the services funded through the RBHA, the Mental Health and Substance Use Disorders Services provided through the Medicaid and Long-Term Care, and finally to children identified as state wards.

### Individuals with Inter-Divisional Involvement

Number of individuals currently receiving DD services who received any MH/SUD Medicaid services at some point in SFY11 or SFY12	3564 (of 5156) 69%
Number of individuals eligible for DD services but do not currently receive a DD funded service who received any MH/SUD Medicaid services at some point in SFY11 or SFY12	937 (of 3025) 31%
Number of individuals currently receiving DD services who receive any service through the Division of Behavioral Health	182 (of 5156) 4%
Number of individuals eligible for DD services but do not currently receive a DD funded service who receive a service through the Division of Behavioral Health	143 (of 3025) 5%
Number of individuals currently receiving DD services who are also a state ward	112 (of 5156) 2%
Number of individuals eligible for DD services but do not currently receive a DD funded service who are also a state ward	48 (of 3025) 2%
Number of individuals currently receiving DD services who also receive a service through DBH, MLTC and are also a state ward	11 (of 5156) .2%
Number of individuals currently eligible for DD services but do not currently receive a DD funded service who also receive a service through DBH, MLTC and are also a state ward	5 (of 3025) .2%

### Costs (state and federal dollars):

SFY11 & SFY12 Total

Costs associated with providing DD services for individuals who received a DD service (5156 individuals with 29,281 claim records)	\$453,827,681
Costs associated with providing Mental Health/Substance Abuse Medicaid services for individuals currently receiving DD services (3564 individuals with 18,747 claim records)	\$18,849,322
Costs associated with providing Mental Health/Substance Abuse Medicaid services for individuals eligible for DD services but do not currently receive a DDD funded service (937 individuals with 4,101 claim records)	\$4,515,472
Costs associated with providing BH services for individuals currently receiving DD services (182 individuals with 339 claim records)	\$521,093
Costs associated with providing BH services for individuals eligible for DD services but do not currently receive a DDD funded service (143 individuals with 306 claim records)	\$498,931

### (4) Funding Services across Divisions

Each DHHS Division offers a distinct array of unique services, based on federal and state law, for people who meet the eligibility criteria (see attachment). Each Division also uses unique payment mechanisms and claims systems for these services.

The **Division of Developmental Disabilities** funds habilitative services that provide teaching, training and maintaining of skills. Depending on need, behavioral or medical risk services under the DD Waivers cover psychology and nursing services that are not offered under the Medicaid State Plan. The DD Waivers provide a menu of services that can be provided by either certified specialized provider agencies or through independent non-specialized providers selected by the individual in services. Services are person centered and directed, and individuals purchase those services with an annual budget amount that is determined based on need assessed by the ICAP (Inventory for Client and Agency Planning). Individuals who receive DD funded services through a waiver and who are eligible for Medicaid currently obtain their physical and mental health services via Medicaid fee-for-service because Waiver participants are excluded from the Managed Care Option.

The **Division of Medicaid and Long-Term Care** has issued, through the Department of Administrative Services, a Request for Proposal for a full-risk capitated Mental Health and Substance Use Disorder Managed Care program for Medicaid and Children's Health Insurance Program (CHIP) members. The program must be integrated and coordinated for multiple Medicaid/CHIP populations within the managed care structure including, but not limited to, the developmental disability population, state wards, dually Medicare and Medicaid eligible population, and those with mental illness and substance abuse. The program will be statewide and include all Medicaid clients including those enrolled in all waivers. The services will be part of an overall coordinated system of care that ensures access to Medicaid Mental Health and Substance Use Disorder treatment services to improve the overall health of every person served. It is the intent of the Division of Medicaid and Long-Term Care to contract with a vendor in early 2013 with the full implementation of this program effective September 1, 2013.

The **Nebraska Behavioral Health System** (NBHS) is comprised of the Division of Behavioral Health, Regional Networks, community based providers, and the Lincoln Regional Center. Each Region contracts with community behavioral health providers based on the assessed needs in each Region. Contracted providers assess individuals for financial eligibility (to determine if the provider may bill the Region for services) when the individual presents for treatment. If the individual is financially eligible, they may also be assessed for clinical eligibility for some higher end services. Eligibility is determined each time an individual initially presents for services. NBHS is a capitated system; that is, providers have a finite amount of money for which they may seek reimbursement based on the Region's need and capped funding from the Division of Behavioral Health. Services are paid for on a fee for service or expense reimbursement basis.

The Department of Health and Human Services funds each service based on the specific program appropriations by the legislature, by the identified payment source for that service, and within



state and federal regulations. Individuals may receive services from more than one Division.

### **(5) Integrated and Coordinated Treatment for Individuals by Divisions**

DHHS facilities may serve the co-occurring population. The Beatrice State Developmental Center in the Division of Developmental Disabilities and the Lincoln Regional Center in the Division of Behavioral Health, in part, help people when challenges or barriers, such as the lack of a willing provider or guardian, must be addressed. This occurs on a case-by-case basis.

Due to staffing limitations and other considerations, BSDC has not been accepting new admissions since 2007. However, the expanded DD service array described in the response to section (1) has allowed individuals with challenging behavioral needs to receive appropriate community-based services through behavioral risk services supported by Team Behavioral Consultation services.

As mentioned previously, collaboration on accessing and developing services occurs within the Department of Health and Human Services on a system level and on a case-by-case basis as needed.

For example, MLTC recently released a Request for Proposal for a vendor to provide Mental Health and Substance Use Disorder services for people eligible for Medicaid. In preparation for the RFP, the four Divisions (MLTC, BH, DD, and CFS) met frequently to discuss challenges and concerns for services for cross-populations. These meetings allowed the Divisions to gain a deeper understanding of the individual services within each Division as well as the service delivery needs. Another example is a task force that worked with patients at LRC and involved BH and DD staff, as well as LRC staff and community treatment providers.

DHHS has developed such cross-divisional efforts and a continued commitment and focus on enhancing collaboration will be important for the future.

### **(6) Recommendations for potential legislation**

While DHHS is aware of anecdotal information that individuals who do not meet eligibility criteria for one type of service may have difficulty becoming eligible for another type of service depending on their functional needs and diagnosis, the case-by-case review does not support that this is a systemic problem. DHHS will continue to collaborate across Divisions and, if issues are identified, provide solutions administratively. We do not recommend legislative change.



## APPENDIX

### Behavioral Health Covered Services

#### *Services for children under age 19:*

Therapeutic Community/Youth/Adolescent  
Transition Aged Wraparound  
Children/Adolescent Wraparound  
Children/School Wraparound  
Children/Youth Short Term Wraparound  
Children/Youth Assessment/Evaluation Only  
Day Treatment  
Emergency Community Support  
Intensive Outpatient Substance Abuse  
Outpatient Mental Health Substance Abuse  
Intensive Outpatient Mental Health  
Medication Management  
Children/Youth Therapeutic Consultation  
Halfway House  
Partial Care  
Community Support Mental Health  
Youth Assessment Only  
Crisis Inpatient Youth  
Mental Health Respite Care  
Home Based Multi-Systemic Therapy  
Emergency Community Support Program Transition Youth  
Supported Employment  
Supported Living  
Crisis Response Team LB603  
Acute Inpatient Hospitalization  
Flex Funds Community Support

#### *Services for adults 19 and over:*

##### **Services for Emergency Services:**

24 Hour Crisis Line  
Acute Inpatient Hospitalization  
Civil Protective Custody  
Crisis Assessment  
Crisis Response Teams  
Crisis Stabilization  
Emergency Community Support  
Emergency Protective Custody  
Emergency Protective Custody/Crisis Stabilization R5  
Emergency Psychiatric Observation

## Behavioral Health Covered Services (cont.)

### **Services for Emergency Services: (cont.)**

Hospital Diversion  
Respite Mental Health  
Social Detox  
Sub-acute Inpatient Hospitalization  
Urgent Med Management  
Urgent Outpatient Psychotherapy

### **Residential Based Services:**

Dual Disorder Residential  
Halfway House  
Intermediate Residential Substance Abuse  
Psychiatric Residential Rehabilitation  
Secure Residential  
Short Term Residential  
Therapeutic Community

### **Outpatient Services:**

Assertive Community Treatment/Alternative Act  
Assessment Only Justice  
Assessment Only Mental Health  
Assessment Only Mental Health/Substance Abuse  
Community Support Mental Health/Substance Abuse  
Day Rehabilitation  
Day Support  
Day Treatment  
Housing Related Assistance  
Intensive Case Management  
Intensive Community Service  
Intensive Outpatient  
Medication Management  
Medication Support  
Mental Health Respite  
Methadone Maintenance  
Outpatient Dual  
Outpatient Group Psychotherapy Mental Health/Substance Abuse  
Outpatient Family Psychotherapy Mental Health/Substance Abuse  
Outpatient Individual Therapy Mental Health/Substance Abuse  
Recovery Support  
Supported Employment

### **Service Enhancement/Ancillary:**

Medication Management Ancillary  
Nurse-Medication Management

## Behavioral Health Covered Services *(cont.)*

### **Service Enhancement/Ancillary:** *(cont.)*

Medication Support

Supported Employment/Housing

### **Pilots:**

Peer Support

Behavioral Health Integration

Homeless Transition Services

Family Programming

Community Support Youth

Outpatient Substance Abuse One World

## Developmental Disabilities

### **Specialized Day Services:**

Community Inclusion

Day Habilitation

Integrated Community Employment

Prevocational Habilitation

Prevocational Workshop

Vocational Planning Services

Workstation Services

### **Specialized Residential Services:**

Companion Home Services

Extended Family Home Services

Group Home Services

In-home services

### **Specialized Respite**

### **Specialized Retirement**

### **Non-Specialized Services:**

Assistive Technology

Community Living and Day Supports

Community Living and Day Supports in-home

Emergency Response System

Respite

Vehicle Modifications

**Children's Services:**

Habilitative Child Care  
Habilitative Daycare In-home  
Homemaker  
Homemaker In-home

**Developmental Disabilities Service Coordination**

<b>Medicaid Covered Services</b>
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*Services for children under age 19:*

**Crisis Stabilization Services:**

Crisis Assessment

**Inpatient Services (Acute and Sub-Acute):**

Acute Inpatient Hospital

**Residential Services:**

Professional Resource Family Care (PRFC)  
Psychiatric Residential Treatment Facility (PRTF) (through age 18)  
Therapeutic Group Home (ThGH)

**Outpatient Assessment and Treatment:**

Biopsychosocial Assessment & Addendum (currently in policy but maybe eliminated by June 30, 2013)  
Client Assistant Program (CAP) (managed care benefit only)  
Community Treatment Aide (CTA)  
Comprehensive Child and Adolescent Assessment (CCAA)  
Comprehensive Child and Adolescent Assessment Addendum  
Conferences with family or other responsible persons  
Day Treatment (MH and SA)  
Home-based Multi-systemic Therapy  
Hospital Observation Room Services (23:59)  
Initial Diagnostic Interviews  
Injectable Psychotropic Medications  
Intensive Outpatient (Mental Health)  
Intensive Outpatient (Substance Abuse)  
Medication Management  
Outpatient (Individual, Family, Group) (Mental Health, Substance Abuse, or Dual Mental Health/  
Substance Abuse)  
Partial Hospitalization  
Psychological Evaluation and Testing  
Sex Offender Risk Assessment  
Substance use disorder Assessment

**Support Services:**

Interpreter Services for Mental Health/Substance services  
Telehealth Transmission

<b>Medicaid Covered Services (cont.)</b>
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*Services for Adults 19 and over:***Crisis Stabilization Services:**

Crisis Assessment

**Inpatient Services (Acute and Sub-Acute):**

Acute Inpatient Hospital  
Sub-acute Hospital

**Outpatient Assessment and Treatment:**

Ambulatory Detoxification  
Biopsychosocial Assessment and Addendum (currently in policy but maybe eliminated by June 30, 2013)  
Client Assistant Program (CAP) (managed care benefit only)  
Crisis Outpatient Services  
Day Treatment (Mental Health)  
Electroconvulsive Therapy – ECT  
Initial Diagnostic Interviews  
Injectable Psychotropic Medications  
Intensive Outpatient (Substance Abuse)  
Medication Management  
Outpatient (Individual, Family, Group) (Mental Health, Substance Abuse, or Dual Mental Health/ Substance Abuse)  
Partial Hospitalization  
Psychiatric nursing (in-home)  
Psychological Evaluation and Testing  
Social Detox  
Substance use disorder Assessment

**Rehabilitation Services:**

Community Support (SA)  
Dual Disorder Residential  
Halfway House  
Intermediate Residential – Substance Abuse  
Short-Term Residential  
Therapeutic Community – (Substance Abuse only)

<b>Medicaid Covered Services (cont.)</b>
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**Support Services:**

Interpreter Services for Mental Health/Substance Abuse services  
Telehealth Transmission

**Medicaid Rehabilitation Option (MRO) services supplemented by Department of Behavioral Health (DBH), which are moving to Medicaid paid services only:**

**Rehabilitation Services:**

Assertive Community Treatment (ACT) and Alternative ACT (Alt. ACT)  
Community Support (Mental Health)  
Day Rehabilitation  
Psychiatric Residential Rehabilitation  
Secure Residential Rehabilitation