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North Dakota Could Better Ensure That Providers Fully Comply With Federal Waiver and State Health, Safety, and Administrative Requirements at 44 Residential Settings



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Why OIG Did This Audit

- OIG conducts health and safety audits of supported living services, adult day care, foster care homes, and regulated child care facilities.
- Previous audits identified multiple health and safety issues that put children and people with special health care needs at risk.
- This audit examined whether North Dakota: (1) exercised adequate oversight of Home and Community-Based Services (HCBS) providers to ensure the health and safety of Medicaid enrollees with intellectual and developmental disabilities residing in residential habilitation settings and (2) established infection control and prevention standards.

What OIG Found

North Dakota could improve its oversight to better ensure residential providers meet some health and safety standards for Medicaid waiver enrollees with intellectual and developmental disabilities, including oversight of infection control and prevention standards.

Of the 16 providers and 51 residential settings we reviewed, we found 182 instances of provider noncompliance with administrative, health, safety, and residential records requirements; and 1 provider that did not have sufficient evidence of a written policy for infection control and prevention. Specifically, we identified:

- 8 providers that did not comply with 1 or more administrative requirements, resulting in 108 instances of provider noncompliance
- 44 residential settings that were not in compliance with 1 or more health, safety, and residential records requirements, totaling 74 instances of provider noncompliance

What OIG Recommends

We made three recommendations, including that North Dakota follow up with residential providers that had the 182 instances of provider noncompliance identified in this report to ensure that corrective actions have been taken; improve its oversight and monitoring of residential providers; and work with residential habilitation services providers to improve internal controls for health and safety at residential habilitation settings, maintenance of records, and training.

North Dakota concurred with two recommendations and detailed steps it has taken and plans to take in response to our recommendations. North Dakota did not concur with one recommendation.

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INTRODUCTION

WHY WE DID THIS AUDIT

State agencies operate Home and Community-Based Services (HCBS) waiver programs, including programs that provide services to individuals with developmental disabilities, under a section 1915(c) waiver to their Medicaid State plans. To receive approval for a waiver, State agencies must ensure the health and welfare of the recipients they serve. A prior Office of Inspector General (OIG) audit found that Missouri could improve its oversight of HCBS providers to protect the vulnerable recipients in their care.¹ Based on the result of the prior audit, OIG is conducting a series of health and safety audits examining supported living services provided to individuals with developmental disabilities.²

OBJECTIVES

Our objectives were to determine whether the North Dakota Department of Health and Human Service's Developmental Disability (DD) Section (Stage agency): (1) exercised adequate oversight of HCBS providers to ensure the health and safety of Medicaid waiver enrollees with intellectual and developmental disabilities residing in residential habilitation settings and (2) established infection control and prevention standards.

BACKGROUND

The Medicaid program provides medical assistance to low-income individuals and individuals with disabilities. The Federal and State governments jointly fund and administer the Medicaid program. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the Medicaid program.

Section 1915(c) of the Social Security Act authorizes the Secretary of Health and Human Services to waive certain Medicaid statutory requirements so that a State may offer HCBS to a State-specified target group of Medicaid beneficiaries who need a level of institutional care that is provided under the Medicaid State plan.

Before the enactment of section 1915(c), the Medicaid program provided limited coverage for long-term services and support in noninstitutional settings but offered full or partial coverage of institutional care. Section 1915(c) was enacted to enable States to address the needs of individuals who would otherwise receive costly institutional care by furnishing cost-effective services that allow them to remain in their households and communities.

¹ The first report in the series, [Missouri's Oversight of Certified Individualized Supported Living Provider Health and Safety Could Be Improved in Some Areas \(A-07-21-03247\)](#), was issued Mar. 21, 2023.

² During our audit, a second report in the series, [Indiana Did Not Fully Comply With Federal Waiver and State Health, Safety, and Administrative Requirements at 30 Residential Settings \(A-05-24-00013\)](#), was issued Oct. 9, 2025.

Federal regulations for section 1915(c) waivers require States to provide assurances that they will implement safeguards, including adequate standards for provider participation, to protect the health and welfare of individuals served under the waiver and to assure financial accountability for funds expended for those services (42 CFR § 441.302).

As part of the waiver, the State agency must also provide assurances that State requirements are met for services or for individuals furnishing services that are provided under the waiver (42 CFR § 441.302(a)(2)).

North Dakota Medicaid Program and Traditional Individuals With Intellectual and Developmental Disabilities Home and Community-Based Services Waiver

In North Dakota, the State agency oversees the Traditional Individuals with Intellectual and Developmental Disabilities (IID/DD) HCBS program, which operates under a federally approved 1915(c) waiver to its Medicaid State plan. The State agency is responsible for the daily administration and supervision of the waiver, including the development and enforcement of related policies, rules, and regulations.³ The waiver allows the State to use Medicaid funding to provide a range of services that offer eligible participants of all ages alternatives to institutional placement.⁴ These services are designed to support full access to the broader community and are arranged through a person-centered planning process that reflects each participant's goals, support needs, and preferences. The State agency retains overall responsibility for the waiver's administration and oversight of all waiver-related functions.

The Traditional IID/DD waiver includes residential habilitation services, which consist of formalized training and supports for participants requiring ongoing daily assistance. These services are intended to assist with and develop self-help, socialization, and adaptive skills that enhance the participant's ability to live independently and participate in an integrated community setting. Residential habilitation may be delivered in a variety of settings, including provider-controlled residential settings, community-based environments, or private residences the participant owns or leases. Services must address conditions specifically related to the participant's intellectual or developmental disability and are designed to support self-care and the transfer of skills from direct care staff to the participant. All DD licensed providers that deliver waiver services, including residential habilitation, are subject to the State agency's survey and oversight process.⁵

³ In its waiver, the State agency assures that the necessary safeguards have been taken to protect the health and welfare of participants receiving services under the waiver. These safeguards include compliance with applicable State agency service standards, rules, and documentation requirements.

⁴ In this report, we refer to Medicaid enrollees as participants.

⁵ In this report, we refer to residential habilitation service providers as residential providers or providers.

North Dakota's Oversight of Health and Safety Standards for Residential Habilitation Settings

The State agency is responsible for managing the system of services and supports for ensuring the health and safety of individuals receiving residential habilitation services. As part of its quality management responsibilities, the State agency conducts HCBS provider surveys. These surveys form a key component of the State's broader quality management system and are conducted transparently alongside other quality assurance activities. The survey process serves several purposes, including providing assurances to CMS that DD licensed residential providers meet State-established conditions, promoting continuous improvement and sustainability of waiver services, collecting CMS-required performance measure data, verifying compliance with waiver assurances and the CMS HCBS Final Rule, and ensuring the implementation of remediation activities when noncompliance is identified.⁶

In addition to provider surveys, the State agency has implemented a multilayered oversight process. This includes initial and ongoing HCBS setting reviews to ensure compliance with Federal regulations related to physical characteristics, community integration, and individual rights. In collaboration with providers, the State agency conducts onsite reviews before services begin in new or modified settings. The State agency also conducts annual person-centered planning reviews to assess individual experiences and ensure services continue to meet participants' needs in the least restrictive environment. Quarterly Quality Enhancement Reviews (QERs) evaluate provider performance and identify areas for improvement, and Environmental Scans assess the physical and operational characteristics of residential settings to ensure alignment with HCBS standards. Additionally, the State agency requires the reporting of critical incidents—including abuse, neglect, exploitation, and medication errors. The State agency monitors these incidents to ensure they are reported, investigated, and followed up on appropriately to safeguard participant safety.⁷

Under the Traditional IID/DD waiver, licensed DD residential providers are the only entities authorized to deliver residential habilitation services to eligible participants. The State agency must ensure these providers are licensed in accordance with the North Dakota Administrative Code (NDAC) and maintain accreditation from an approved accreditation organization.⁸ This

⁶ CMS established a Final Rule (CMS 2296-F) effective on March 17, 2014. The Final Rule established requirements for HCBS settings, which are based on the nature and quality of individuals' experiences. The requirements are intended to assure access to the benefits of community living (79 Fed. Reg. 2949, 3030-31 (Jan. 16, 2014) (codified at 42 C.F.R. § 441.301(c)(4)).

⁷ Critical incidents are serious events or incidents that need to be reported immediately because of their potential or actual impact on health, safety, or welfare of a waiver participant. Critical incidents typically involve serious injuries requiring more than first aid; allegations or confirmed cases of abuse, neglect, or exploitation; and medication errors that result in or have the potential to result in harm (Waiver Application, Appendix G, *Participant Safeguards*, § G-1: Response to Critical Events or Incidents, North Dakota Administrative Code (NDAC) 75-04-01-20.2, and DD Policy Issuance (PI) 18-04 Abuse, Neglect, or Exploitation Policy).

⁸ During the audit, this organization was the Council on Quality and Leadership (CQL).

dual requirement is intended to ensure that providers meet both State and nationally recognized standards for quality and safety.

North Dakota Infection Control and Prevention Standards

In accordance with the NDAC requirements, DD licensed residential providers must have policies and procedures that guarantee adequate protection from infectious and communicable diseases. These providers must develop written plans and procedures that address emergencies, including serious illness. The State agency oversees compliance with these requirements as part of its broader responsibility for ensuring the health and safety of individuals receiving services. This oversight includes reviewing residential provider policies, monitoring implementation during surveys and site visits, and requiring corrective actions when deficiencies are identified.

HOW WE CONDUCTED THIS AUDIT

We used Medicaid paid claims data provided by the State agency for the quarter ended December 31, 2023, to identify 35 DD licensed providers in North Dakota with claims for residential habilitation services. As of our entrance conference with the State agency on May 14, 2024, 32 of these providers had active DD licenses for residential habilitation services. We selected a nonstatistical sample of 16 residential providers for review based on various factors, including geographic location, survey deficiency data, total residential habilitation paid claims for the quarter ended December 31, 2023, and provider critical incident reports. For all 16 providers we conducted desk audits to evaluate State agency oversight of program requirements. Of the 16, we selected 8 providers in the State’s most populous regions at which we conducted onsite reviews.⁹ At these 8 providers we selected a nonstatistical sample of 4 or more supported living settings where residential services were provided, for a total of 51 residential settings. To further evaluate the State agency’s oversight of the residential providers, we conducted unannounced site visits at the 8 selected residential provider offices and the 51 selected residential setting locations between August 27 and November 21, 2024, and we discussed with State officials how the State agency monitors its residential providers and settings.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions

⁹ We conducted desk audits by reviewing documentation provided by the State agency, including licensure and accreditation dates, critical incident summaries, HCBS survey reports, and applications for provider licensure renewal. Providers also submitted current licenses, accreditation documents, environmental scans, health and safety policies, and plans of correction for identified deficiencies. For eight providers, we also conducted onsite reviews and collected additional records—such as staff and participant files—which we reviewed as part of the desk audit to assess compliance with administrative requirements.

based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix A contains the details of our audit scope and methodology. Appendix B contains Federal regulations and specific State requirements related to health, safety, residential records, and administration.

FINDINGS

The State agency could improve its oversight to better ensure residential providers meet some health and safety standards for participants with intellectual and developmental disabilities, including oversight of infection control and prevention standards. Of the 16 residential providers and 51 residential settings we reviewed, we found 182 instances of residential provider noncompliance with administrative, health, safety, and residential records requirements. Specifically, we identified:

- 8 residential providers that did not comply with 1 or more administrative requirements, resulting in 108 instances of residential provider noncompliance
- 44 residential settings that were not in compliance with 1 or more health, safety, and residential records requirements, totaling 74 instances of residential provider noncompliance

Furthermore, the State agency generally established infection control and prevention standards; however, it could better ensure that all residential providers follow these requirements. Of the 16 residential providers that we reviewed, we found that 1 provider did not have sufficient evidence of a written policy for infection control and prevention.

Weaknesses in the State agency's quality management system, which did not consistently detect and prevent noncompliance with health and safety standards, limited the effectiveness of its oversight of residential providers. Additionally, residential providers did not always meet their responsibilities under State requirements, citing challenges such as staffing shortages and recent changes in administrative leadership as contributing factors. As a result, participants with intellectual and developmental disabilities who received residential habilitation services and supports were at increased risk of potential harm. (See Appendix C.)

EIGHT RESIDENTIAL PROVIDERS DID NOT COMPLY WITH ONE OR MORE ADMINISTRATIVE REQUIREMENTS

Residential providers are required to conduct background checks on all employees who work with participants and at least every 5 years thereafter for current employees.¹⁰ Furthermore,

¹⁰ NDAC 75-04-01-06(2) and DD PI 10-03 Background Check requirements.

residential providers are required to ensure all service staff demonstrate basic professional competencies as required by their job descriptions and comply with all required training, credentialing, and professional development activities.¹¹ For example, all employees must complete all components of orientation training and position-based competency training prior to the employee assuming sole responsibility for the participant receiving services. All DD licensed providers must maintain documentation of training and make it available to outside entities upon request for review.¹² Additionally, residential providers must ensure that all employees who drive vehicles transporting participants hold a valid State driver's license and maintain automobile insurance.¹³

Of the 16 residential providers we reviewed, 8 did not fully comply with 1 or more State administrative requirements. We found 108 instances of provider noncompliance with State administrative requirements. Among other things, we found 37 instances at 8 residential providers that failed to meet training requirements. For example, we found that annual training and CPR/First Aid certifications were not conducted within time requirements or were not sufficiently documented to meet training requirements. We also found 46 instances involving 6 residential providers that had not completed background check components within time requirements or that had not sufficiently documented the components to show evidence of completion.¹⁴ Furthermore, we found 25 instances involving 6 providers that did not always verify that staff had a current driver's license or maintained proof of insurance when transporting participants.

FORTY-FOUR RESIDENTIAL SETTINGS WERE NOT IN COMPLIANCE WITH ONE OR MORE RESIDENTIAL SETTING REQUIREMENTS

Of the 51 residential settings reviewed, 44 were not in compliance with 1 or more State health, safety, and residential records requirements. Specifically, we found 74 instances of residential provider noncompliance, including:¹⁵

¹¹ NDAC 75-04-01-20(1)(p).

¹² DD PI 18-05 Training requirements.

¹³ NDAC 75-04-01-20(1)(r) and NDAC 75-04-01-38.

¹⁴ A complete background check consists of many different components or checks. These include a Board of Nursing registry check, sex offender check, criminal background check, abuse and neglect screening, and a State and Federal exclusion check. Therefore, the instances of background check noncompliance consisted of one or more missing background check components.

¹⁵ Within this report, the instances of noncompliance at residential settings were categorized as health and safety or residential record requirements findings. Therefore, we have identified findings in both categories at the same residential setting.

- 63 instances of noncompliance with health and safety requirements associated with 40 residential settings
- 11 instances of noncompliance with residential records requirements associated with 9 residential settings

Residential Settings Were Not in Compliance With Health and Safety Requirements

Residential providers are required to show that residential settings are in fit, safe, and sanitary condition, and are properly equipped to provide good care and treatment.¹⁶ Additionally, the State agency is required to provide assurances that the participants receive authorized services and supports included in his or her person-centered service plan in a timely manner, with effective control and administration of medication.¹⁷ Residential providers must ensure that all vehicles transporting participants are equipped with a first-aid kit and a fire extinguisher.¹⁸

For the 63 instances of noncompliance with health and safety requirements at 40 residential settings, among other things, we found that 5 providers at 23 residential settings had fire safety deficiencies such as untimely fire extinguisher inspections (photographs 1 and 2) and inoperable or missing smoke detectors (photographs 3 and 4); 6 providers at 11 residential settings had general environmental health and safety concerns such as expired food, exposed electrical wires (photographs 5 and 6), soiled diapers which created a strong odor (photograph 7), and bathrooms that were found in an unsanitary condition with mold present on surfaces (photographs 8, 9, and 10); 4 providers at 13 residential settings did not contain required safety equipment for vehicles that transport participants; and 6 providers at 7 residential settings did not properly control medication, as described in the participants' overall service plans.

Additionally, at four providers we found nine residential settings had unsafe environments that were inconsistent with the requirements of the participants' overall service plan. These instances included unlocked cabinets and refrigerators when the plan required them to be kept locked and the presence of door locks that were inconsistent with the requirements of the participants' plans. Furthermore, some staff and participants reported that emergency drills were not conducted as specified in the participants' service plans. (See Appendix D for additional photographs that further demonstrate the effect of noncompliance.)

¹⁶ North Dakota Century Code (NDCC) 25-16-03.

¹⁷ NDAC 75-04-01-20(1)(d) and NDAC 75-04-01-20(1)(h).

¹⁸ NDAC 75-04-01-20(1)(r).



Photograph 1: Fire extinguisher last inspected September 2024 (photo taken Nov. 18, 2024)



Photograph 2: Fire extinguisher not charged and outdated (last inspected 2021) (photo taken Nov. 18, 2024)



Photograph 3: Smoke Detector removed from wall



Photograph 4: Smoke Detector inoperable and not mounted



Photograph 5: Electrical box appears broken with exposed wires.



Photograph 6: Junction box with wires exposed



Photograph 7: Used diapers creating foul odor in trash can with no lid



Photograph 8: Unclean shower with apparent mold on floor/shower trim



Photograph 9: Unclean bathroom sink



Photograph 10: Bathroom wall in disrepair with peeling paint

Residential Settings Were Not in Compliance With Record Requirements

Residential providers must guarantee that incidents of alleged abuse, neglect, and exploitation are thoroughly investigated and reported to the protection and advocacy project.^{19, 20} Furthermore, providers must maintain documentation demonstrating compliance with applicable requirements.²¹

For the 11 instances of noncompliance with record requirements associated with 9 residential settings, we found that some participant records did not consistently show evidence that the provider reported critical incidents to the protection and advocacy project within the required 24-hour timeframe.

¹⁹ NDAC 75-04-01-20(1)(t); Waiver Application, Appendix G, *Participant Safeguards*, Section G-1: “Response to Critical Events or Incidents,” and DD PI 18-04 Abuse, Neglect, or Exploitation Policy.

²⁰ The North Dakota Protection and Advocacy Project is a federally mandated agency dedicated to protecting and advocating for the legal and human rights of individuals with DD and investigating incidents of abuse and neglect.

²¹ NDAC 75-04-01-20, 75-04-01-40; ND Department of Health and Human Services, Developmental Disabilities Section, *DD Section Provider Manual*, § VI(d)(6), 3rd revision, effective April 1, 2018.

ONE PROVIDER DID NOT HAVE SUFFICIENT EVIDENCE OF AN INFECTION CONTROL AND PREVENTION POLICY

Residential providers are required to have written and implemented policies and procedures that ensure adequate protection from infectious and communicable diseases.²²

The State agency generally established infection control and prevention standards; however, it did not ensure that all residential providers followed these requirements. Of the 16 residential providers we reviewed, 1 provider did not have a formal written policy for infection control and prevention.

During our site visit, the provider's new administrator presented a typed statement labeled "Statement of Policy and Procedures for First Aid, CPR and Blood Borne Pathogens" in response to our request for the infection control and prevention policy. This statement was created at the time of our request and was not an approved or implemented policy document. The administrator also provided examples of staff testing materials related to First Aid, CPR, and Blood Borne Pathogens training. However, these documents did not constitute sufficient evidence of a formalized, written, and implemented infection control and prevention policy as required by program standards.

The administrator explained that the provider had recently undergone a leadership change, and that the former administrator's records were incomplete, poorly organized, and difficult to locate. As part of its monitoring efforts, the State agency reviewed the provider-completed policies and procedures checklist during the licensing renewal process. However, the checklist was a standardized form that did not include a separate line item for the NDAC-required infection control and prevention policy. As a result, this tool used for monitoring compliance was not adequate to detect or prevent this instance of noncompliance.

CAUSES OF NONCOMPLIANCE WITH FEDERAL WAIVER AND STATE REQUIREMENTS

The State agency did not ensure residential providers met health and safety standards for participants with intellectual and developmental disabilities because of weaknesses in the State's quality management system, which included mechanisms intended to assure the health, safety, and welfare of participants. Oversight tools such as HCBS provider surveys, QERs, and environmental scans were not always conducted in a timely or thorough manner. Although guidance in the State agency's *Home and Community-Based Services Provider Survey Handbook* indicates that the DD Surveyor should conduct an announced visit to each DD licensed provider at least once every 3 years, some providers went more than 3 years between completed surveys, further weakening oversight efforts. QERs, which are intended to include face-to-face observations in residential settings, were sometimes conducted only in nonresidential locations, limiting the State agency's ability to assess residential setting conditions. Environmental scans,

²² NDAC 75-04-01-20(1)(h).

used to monitor for safe and sanitary conditions, were occasionally delayed, and the results were not always thorough or consistent with other participant documentation.

The internal controls that the State agency used to achieve quality did not always detect and prevent instances of noncompliance. For example, the State agency's monitoring did not identify the absence of a formal infection control and prevention policy at one provider. Although such a policy is required by the NDAC, the checklist used during licensure renewal does not explicitly list infection control and prevention as a standalone item, which may contribute to oversight gaps.

In addition to these internal control issues, providers also contributed to noncompliance. Residential providers have a responsibility to meet standards that promote quality and ensure health and welfare in accordance with Federal and State standards and in accordance with individualized service plans, but the providers did not always fulfill their responsibilities to follow these program requirements. Many providers reported challenges in recruiting and retaining staff, which they identified as their greatest operational difficulty. Some providers had also experienced recent changes in administrative leadership, which affected the implementation and monitoring of program requirements. These challenges help explain why providers sometimes did not fulfill their responsibilities, but these challenges do not alter the requirements for provider compliance.

CONCLUSION

For the residential providers and settings we reviewed, we determined that the State agency could improve oversight of residential providers and settings to better ensure the health and safety of participants with intellectual and developmental disabilities residing in residential habilitation settings. Weaknesses in the State agency's quality management system, which did not consistently detect and prevent noncompliance with health and safety standards, limited the effectiveness of its oversight. Additionally, providers did not always meet their responsibilities under State requirements, citing challenges such as staffing shortages and recent changes in administrative leadership as contributing factors. As a result, participants with intellectual and developmental disabilities who received residential habilitation services and supports were at increased risk of potential harm.

We discussed our results pertaining to health and safety concerns upon conclusion of onsite provider visits. We held exit meetings with each provider we visited to discuss the results of our visits to residential settings and the identified health and safety concerns. Some providers indicated that they would take corrective action right away to improve the health and safety conditions for the individuals supported and others took note of our concerns to further investigate the matters. Providers indicated that they were in frequent communication with the State agency regarding various program matters.

RECOMMENDATIONS

- We recommend that the State agency follow up with the residential providers that had the 182 instances of provider noncompliance identified in this report to ensure that they have taken corrective actions.
- We recommend that the State agency improve oversight and monitoring of residential providers to better identify and address health and safety risks.
- We recommend that the State agency work with the residential providers to improve internal controls for health and safety at residential settings, maintenance of records, and training.

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency concurred with our first and third recommendations and detailed steps it has taken and plans to take in response to our recommendations. The State agency did not concur with our second recommendation. The State agency's comments are included in their entirety as Appendix E.

For our first recommendation, the State agency concurred and stated that it will follow up with the identified residential providers to ensure corrective actions are implemented for the 182 instances of noncompliance. It further stated it will coordinate with the identified providers, require verification of corrections, and require plans of correction, as applicable.

For our second recommendation, the State agency did not concur with our conclusion that oversight activities did not detect and prevent noncompliance, stating that our review reflected a point-in-time assessment and that it maintains a multipronged oversight approach to monitor quality and compliance. The State agency indicated that providers are also responsible for meeting and sustaining all requirements. The State agency described numerous existing oversight activities and noted improvements made prior to our audit, including quality-focused organizational changes and updates to its internal oversight system to improve tracking and reporting of monitoring activities, enhancements to licensing and incident-reporting processes, development of a new licensing portal and learning management system, and increased provider support. The State agency also identified additional areas it will explore to strengthen oversight.

For our third recommendation, the State agency concurred and emphasized that providers are responsible for internal controls to maintain compliance with health and safety requirements. It reported that it will continue to support providers through actions that include implementing a statewide learning management system, exploring background-check process changes, improving follow up and verification procedures, reviewing administrative code, providing training and technical assistance, and sharing our audit findings statewide with State oversight staff and licensed providers.

OFFICE OF INSPECTOR GENERAL RESPONSE

We acknowledge the State agency's nonconcurrency with our second recommendation and its description of its oversight processes and planned improvements. However, many of the oversight activities described by the State agency were in place during the audit period, but they did not consistently prevent or detect the health and safety risks identified. The conditions we observed indicate gaps in the practical effectiveness of the oversight framework, despite the number of processes outlined. Although providers are responsible for meeting and sustaining requirements, the State agency remains accountable for ensuring adequate oversight to identify noncompliance and ensure timely corrective action. The State agency's ongoing and planned enhancements further support our conclusion that opportunities exist to improve its oversight practices. We commend the State agency for the actions it has taken and plans to take to address our recommendations.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

We used Medicaid paid claims data provided by the State agency to identify residential providers. We identified 35 residential providers in North Dakota that provided residential habilitation services on behalf of 1,496 participants, totaling approximately \$34 million in Medicaid reimbursement for the quarter ended December 31, 2023. As of our entrance conference with the State agency on May 14, 2024, 32 of these residential providers had active DD licenses for residential habilitation. We selected a nonstatistical sample of 16 providers for review based on various factors, including geographic location, survey deficiency data, total residential habilitation paid claims for the quarter ended December 31, 2023, and provider critical incident reports. For all 16 residential providers we conducted desk audits to evaluate the State agency's oversight of program requirements. Of the 16, we selected 8 residential providers in the State's most populous regions at which we conducted onsite reviews. At these 8 residential providers we selected a nonstatistical sample of 4 or more supported living settings where residential services were provided, for a total of 51 residential settings.

To evaluate the State agency's oversight of residential settings, we conducted unannounced site visits at the 8 selected residential provider offices and the 51 selected residential setting locations from August 27 through November 21, 2024. We conducted fieldwork in the North Dakota cities of Bismarck, Mandan, Grand Forks, and Fargo.

During our audit, we did not review the overall internal control structure of the State agency or the Medicaid program. Rather, we reviewed only the internal controls that pertained directly to our objectives. We specifically examined the State agency's residential provider requirements and its quality management system for monitoring provider compliance. However, our audit may not have identified all material weaknesses in the State agency's internal controls.

METHODOLOGY

We took the following steps to accomplish our objective:

- Reviewed applicable Federal and State requirements for residential providers and settings
- Discussed with State agency officials how the State agency monitors its residential providers and settings to gain an understanding of the State's health and safety requirements
- Assessed the design, implementation, and operating effectiveness of the State agency's: (1) control environment, (2) control activities, and (3) monitoring of residential providers and settings

- Obtained the Medicaid paid claim data for the Traditional IID/DD waiver from the State agency for the quarter ended December 31, 2023
- Reconciled the Medicaid Management Information System (MMIS) claims data to the *Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program, Form CMS-64* report schedule applicable to HCBS waiver expenditures
- Constructed a list of residential providers and participants from the MMIS claims data
- Obtained a list of HCBS providers that included survey results and licensure and accreditation dates from the State agency and compared it to the list of providers from the MMIS claims data for completeness and accuracy
- Obtained and reviewed administrative, health, safety, and residential record requirement checklists used by the State agency and used these as a guide for conducting site visits
- Selected a nonstatistical sample of 16 residential providers and 51 residential locations
- Conducted desk audits of the 16 selected residential providers and for each provider:
 - Determined whether the State agency completed a recent HCBS provider survey and plan of correction
 - Determined whether the provider met applicable program requirements for HCBS residential habilitation licensure and accreditation
 - Determined whether the provider had written and implemented health and safety policies and procedures, including those specific to infection control and prevention, that were in accordance with Federal and State requirements
- Conducted unannounced site visits at the 8 selected residential provider administrative offices and 51 residential locations, including discussions with staff and participants regarding health and safety conditions
- Evaluated residential provider and setting compliance using the administrative, health, safety, and residential record requirements
- Discussed the results of the audit with residential providers and State agency officials

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions

based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX B: FEDERAL AND STATE REQUIREMENTS

FEDERAL REQUIREMENTS

Section 1915(c) of the Social Security Act authorizes the Secretary of Health and Human Services to waive certain Medicaid statutory requirements so that a State may offer HCBS to a State-specified target group of Medicaid beneficiaries who need a level of institutional care that is provided under the Medicaid State plan.

Prior to the enactment of section 1915(c), the Medicaid program provided limited coverage for long-term services and support in noninstitutional settings but offered full or partial coverage of institutional care. Section 1915(c) was enacted to enable States to address the needs of individuals who would otherwise receive costly institutional care by furnishing cost-effective services while the individuals remain in their households and communities.

Federal regulations for section 1915(c) waivers require States to provide assurance that necessary safeguards will be taken, including adequate standards for provider participation, to protect the health and welfare of individuals serviced under the waiver and to assure financial accountability for funds expended for those services (42 CFR § 441.302).

As part of the waiver, the State agency must provide assurances to CMS that State requirements are met for services or for individuals furnishing services that are provided under the waiver (42 CFR § 441.302(a)(2); 1915(c) waiver). The State agency must also provide assurances that the necessary safeguards have been taken to protect the health and welfare of participants receiving services under the waiver. These safeguards include compliance with applicable State agency service standards, rules, and documentation requirements. In addition, waiver services must be furnished under a written person-centered service plan (also called plan of care) that is based on a person-centered approach and is subject to approval by the Medicaid agency (42 CFR § 441.301(b)(1)(i)).

THE HOME AND COMMUNITY-BASED SERVICES WAIVER APPLICATION

The Waiver Application requires providers to comply with State requirements including conducting criminal and background checks for all prospective employees of licensed DD provider agencies who may have direct access to individuals served. This includes direct care positions, administrative positions, and other support positions. When prospective employees have lived in North Dakota for less than 5 consecutive years, a national criminal record check is obtained. When prospective employees have lived in the State for more than 5 years, only a State criminal record check is required (Waiver Application, Appendix C, *Participant Services*, section C-2: “General Service Specifications” (1 of 3)).

The Waiver Application requires the DD licensed provider and the participant and/or legal decision maker to monitor and implement a participant’s overall service plan. The State agency is responsible for in-depth monitoring every 6 months, which includes quarterly face-to-face

visits. These monitoring activities include ensuring that services are furnished in accordance with the participant's service plan, services meet the participant's needs, emergency back-up plans are effective, participants exercise their choice of provider, and participants have access to health services identified in the plan (Waiver Application, Appendix D, *Participant-Centered Planning and Service Delivery*, Section D-1: "Service Plan Development" (4 of 8) and Section D-2: "Service Plan Implementation and Monitoring").

The Waiver Application requires providers to have ongoing responsibility for monitoring participant medication regimens. The State agency policy requires that personnel administering medications through a DD licensed provider complete the medication training requirements and that medication administration is delegated by a licensed medical professional (Waiver Application, Appendix G, *Participant Safeguards*, Section G-3: "Medication Management and Administration").

The Waiver Application requires the State agency to evaluate the effectiveness and outcomes of the discovery, remediation, and quality improvement plans (Waiver Application, Appendix H, *Quality Improvement Strategy*, Section H-1: "Systems Improvement").

STATE REQUIREMENTS

The State agency administers and oversees the HCBS program under a 1915(c) waiver to its Medicaid State plan, which includes services under the Traditional IID/DD program. The NDAC identifies requirements for providers of residential services provided under the Traditional IID/DD waiver.²³ The State agency is responsible for the day-to-day administration and supervision of the waiver through the implementation of policies, procedures, and program manuals. As part of its quality improvement strategy, the State agency oversees monitoring of service implementation, participant safety and satisfaction, and integrity of submitted claims.

State Agency Residential Provider Requirements and Guidance

In general, no individual, association of individuals, partnership, limited liability company, or corporation shall offer or provide a service or own, manage, or operate a facility offering or providing a service to more than two individuals with developmental disabilities without first having obtained a license from the department (NDAC 75-04-01-02).

The licensee shall submit to the department, on a form or forms provided, an application for a license not later than 60 calendar days prior to the expiration date of a valid license. If the provider agency continues to meet all standards established by the rules under this chapter, the department shall issue a license renewal annually on the expiration date of the previous year's license (NDAC 75-04-01-11).

²³ We cited the provisions of the NDAC that were in effect during our audit period.

Licensees shall sign a Medicaid provider agreement and required addendums with the department to provide services to individuals with developmental disabilities (NDAC 75-04-01-12.1).

As a condition of participation in the North Dakota Medicaid Program, the provider agrees to comply with all applicable provisions of statute, rules, and federal regulations governing the providing of health care and reimbursement of services and items under Medicaid in North Dakota (Medicaid Program Provider Agreement form, SFN615).

The State agency's *DD Section Provider Manual*, 3rd revision, effective July 2023, states (on pages 17–21): "All DD licensed providers are required to obtain and maintain accreditation as identified in NDAC 75-04-01-15. [...] All providers are required to adhere to the rules, standards, and documentation requirements [in the applicable Federal and State regulations, and State agency policies.]" Additionally, licensees must maintain documentation demonstrating compliance with applicable State requirements.

State Agency Administrative Requirements and Guidance

The licensee shall conduct Federal and State criminal background checks on all persons employed who work with participants, including volunteers (NDAC 75-04-01-06(2)).

Assures that all service staff demonstrate basic professional competencies as required by their job descriptions and comply with all required training, credentialing, and professional development activities (NDAC 75-04-01-20(1)(p)).

Assures that all vehicles transporting participants are driven by individuals who hold a valid state driver's license (NDAC 75-04-01-20(1)(r)).

Licensees shall secure and maintain automobile or vehicle insurance covering property damage, comprehensive, collision, uninsured motorists, bodily injury, and no fault (NDAC 75-04-01-38(d)).

The State agency's *Background Check Policy for Licensed DD Providers*, PI 10-03, 3rd revision, effective September 1, 2022, states (on pages 5–7): "DD licensed provider agencies must conduct an initial background check for all prospective employees and at least every 5 years thereafter for current employees." Additionally, a complete background check consists of Criminal history background check, Certified Nurse Aide registry, Child Abuse and Neglect Central registry, Sex offender registry, State and Federal exclusions, and State Board of Nursing verifications.

The State agency's *Staff Training Requirements for Licensed DD Providers*, PI 18-05, 1st revision, effective April 1, 2023, states (on pages 2–4): Training is mandatory for all new employees, full- and part-time staff, returning employees, contracted employees or interns that will have direct contact with participants. Documentation of training must be maintained by the licensed provider and be available upon request by outside entities for review. Additionally, orientation

training components must occur within 45 days of employment and prior to the employee assuming sole responsibility for the individual(s) receiving services. These components include, but not be limited to, human and legal rights, basic health and safety concerns, current abuse and neglect policies, emergency evacuations, and the Health Insurance Portability and Accountability Act. Furthermore, providers must complete position-based competency trainings prior to the employee assuming sole responsibility for the individual(s) receiving services. Trainings include overall service plan and behavioral support plans, participant specific information and practicum experiences, CPR and first aid, medication certification, and medication recertifications. Most of the orientation and position-based competency trainings require all staff to be trained annually.

State Agency Health and Safety Requirements and Guidance for Residential Settings

Licenseses shall submit evidence that policies and procedures approved by the licenseses' governing body are written and implemented in a manner which:

Guarantees the participant the right to receive authorized services and supports included in his or her person-centered service plan in a timely manner (NDAC 75-04-01-20(1)(d)).

Guarantees the participant access to appropriate and timely medical and dental care and adequate protection from infectious and communicable diseases and guarantees effective control and administration of medication (NDAC 75-04-01-20(1)(h)).

Guarantees that, where applicable, participants are provided a nutritious diet, approved by a qualified dietitian, in sufficient quantities to meet the participant's dietary needs (NDAC 75-04-01-20(1)(j)).

Assures the participant safe and sanitary living and working arrangements and provides for emergencies or disasters and first-aid training for staff (NDAC 75-04-01-20(1)(l)).

Assures that annual evaluations that measure program outcomes against previously stated goals and objectives are conducted (NDAC 75-04-01-20(1)(q)).

Assures that all vehicles transporting participants are subject to routine inspection and maintenance, licensed by the department of transportation, equipped with a first-aid kit and a fire extinguisher, carry no more individuals than the manufacturer's recommended maximum capacity, handicapped accessible, where appropriate, and are driven by individuals who hold a valid state driver's license (NDAC 75-04-01-20(1)(r)).

Guarantees that incidents of alleged abuse, neglect, and exploitation are thoroughly investigated and reported to the governing body, chief executive officer, participant-authorized representative, or advocate, the protection and advocacy project, and the

department with written records of these proceedings being retained for 3 years (NDAC 75-04-01-20(1)(t)).

The State agency shall issue a license for the operation of a treatment or care center for individuals with a developmental disability upon inspection to demonstrate that the premises are in fit, safe, and sanitary condition and are properly equipped to provide good care and treatment (North Dakota Century Code 25-16-03 and 25-16-04).

The State agency's *DD Section Provider Manual*, section VI(F), "Building Design and Safety Requirements", 3rd revision, effective July 2023, states (on page 21): "All DD licensed providers must ensure that the building meets the safety requirements and regulations, including local zoning laws, occupancy rates, life safety codes, sanitation, [and] emergency plans . . ."

The State agency's *DD Section Provider Manual*, section VI(I), "Abuse and Neglect Reporting", 3rd revision, effective July 2023, states (on page 23): In accordance with State agency policy and NDAC, DD licensed providers are required to report Serious Events and Reportable Incidents. Additionally, the State agency's Abuse, Neglect, or Exploitation Policy for Licensed DD Providers, Section III: Serious Events – Requirements for Reporting 1(B), PI 18-04, effective May 1, 2022, states (on page 8): "A verbal report must be made to [the protection and advocacy project] within twenty-four (24) hours of the serious event occurring, or upon knowledge of the event occurring."

The State agency's "Environmental Scan Process", updated and effective April 1, 2019, states (on pages 1-2): The State agency is responsible to complete the annual Environmental Scan for DD licensed group residential habilitation and facility-based day programs, as well as non-facility based residential habilitation settings, to ensure the individual's health and safety.

The State agency's Quality Enhancement Review Protocol, effective March 22, 2023, states (on pages 1-4): The QER complies with Title XIX Medicaid HCBS waiver regulations, which require the State agency to assure sufficient oversight of services provided through North Dakota's DD HCBS 1915(c) waiver. The QER is also used to monitor the quality of other services reimbursed through the North Dakota DD system. The State agency is responsible for the monitoring of the implementation of the approved plan and the participant's health and welfare. For HCBS waiver services, the review period is conducted in 6-month intervals. Two face-to-face contacts with the participant must occur within the 6-month review period and should alternate between the participant's residence and place of day services for the State agency to observe the setting and programs.

**APPENDIX C: INSTANCES OF NONCOMPLIANCE WITH
ADMINISTRATIVE AND RESIDENTIAL SETTING REQUIREMENTS**

Table 1: Residential Providers Instances of Noncompliance

Provider	Staff records – Background Check	Staff records – Training	Staff records – Transportation	Total
1				
2				
3				
4				
5				
6				
7				
8				
9	0	6	0	6
10	10	4	0	14
11	0	11	1	12
12	11	4	2	17
13	4	5	9	18
14	6	1	4	11
15	9	5	2	16
16	6	1	7	14
Totals	46	37	25	108

Table 2: Residential Settings Instances of Noncompliance

Residence	Health and Safety	Residential Records	Total
1	0	0	0
2	1	1	2
3	0	1	1
4	1	0	1
5	1	1	2
6	2	0	2
7	0	0	0
8	1	0	1
9	0	1	1
10	0	0	0
11	1	0	1
12	2	0	2
13	1	0	1
14	2	0	2
15	0	0	0
16	1	0	1
17	1	0	1
18	1	0	1
19	1	0	1
20	0	0	0
21	1	3	4
22	1	0	1
23	0	1	1
24	0	0	0
25	1	1	2
26	1	1	2
27	0	1	1
28	1	0	1
29	3	0	3
30	2	0	2
31	1	0	1
32	3	0	3
33	2	0	2
34	1	0	1
35	1	0	1

Residence	Health and Safety	Residential Records	Total
36	2	0	2
37	1	0	1
38	1	0	1
39	0	0	0
40	1	0	1
41	3	0	3
42	4	0	4
43	3	0	3
44	1	0	1
45	3	0	3
46	2	0	2
47	2	0	2
48	2	0	2
49	1	0	1
50	1	0	1
51	2	0	2
Totals	63	11	74

APPENDIX D: ADDITIONAL PHOTOGRAPHS OF NONCOMPLIANCE



Photograph 11: Two deep freezers plugged into the same garage outlet creating fire hazard



Photograph 12: Fire extinguisher with inconsistent monthly inspections (last inspection was June 2024) (Photo taken Aug. 28, 2024)



Photograph 13: Space heater placed near long drapes



Photograph 14: Smoldering cigarettes in disposable pan, kept on wooden deck, some noted to have missed the pan and scattered along wooden door frame and deck creating a fire hazard



Photograph 15: Broken, missing ceiling tiles in basement



Photograph 16: Bedroom clutter obstructing accessibility to emergency exit



Photograph 17: Food, cords, and medicine in bed with unclean bedding and broken ceiling tile above bed



Photograph 18: Missing smoke detector on staff office wall, which was inoperable and found lying on staff desk



Photograph 19: Fire extinguisher mounted but covered behind sweatshirts and inconsistent monthly inspections (last inspection was June 2024) (Photo taken Aug. 28, 2024)

APPENDIX E: STATE AGENCY COMMENTS



April 23, 2026

Report Number: A-07-24-01437

James Korn
Office of Inspector General
U.S. Department of Health and Human Services
Office of Audit Services, Region VII
1201 Walnut Street, Suite 1309
Kansas City, MO 64106

Dear James Korn:

North Dakota's Developmental Disability (DD) Section is responding to OIG's draft report dated March 25, 2026, "North Dakota Could Better Ensure That Providers Fully Comply with Federal Waiver and State Health, Safety, and Administrative Requirements at 44 Residential Settings".

Please refer to the following document containing North Dakota's responses.

Thank you,

A handwritten signature in black ink that reads "Krista Fremming".

Krista Fremming
Interim Director, Medical Services
North Dakota Department of Health and Human Services

DEVELOPMENTAL DISABILITIES

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North Dakota Developmental Disabilities (DD) Section
Response to OIG Recommendations

Recommendation 1: North Dakota follow up with residential providers that had the 182 instances of provider noncompliance identified in this report to ensure that they have taken corrective actions.

North Dakota concurs to follow up with providers. North Dakota will work with the identified providers to correct 182 instances of noncompliance:

- The state will coordinate with the identified providers to address the site or provider specific concerns, require providers to verify corrections made or submit and complete a plan of correction, as applicable, for their respective non-compliance findings.
- The plan of correction will also include that providers identify their processes for monitoring, addressing non-compliance, and maintaining corrections.

Recommendation 2: North Dakota improve oversight and monitoring of residential providers to better identify and address health and safety risks.

North Dakota does not concur with the conclusion that oversight activities did not detect and prevent noncompliance, as the review reflects a point-in-time assessment. North Dakota currently has a multi-pronged approach of oversight processes in place that contains various elements to monitor quality and compliance. Providers are also responsible for meeting and sustaining all requirements. North Dakota acknowledges this review provided valuable insights and identified ongoing opportunities to strengthen and enhance existing procedures.

Current oversight activities include:

- Initial inspections prior to licensure and annual fire inspections for licensed group homes.
- Environmental Scans are completed yearly by Program Management to monitor safety and physical conditions.
- Program Management on-site visits are completed to monitor health, safety, implementation of service plans, and satisfaction with services.
- Initial and ongoing HCBS setting reviews to monitor compliance with the HCBS Final Rule.
- Review of provider policy and procedures at initial and, if applicable, annual licensing.
- Require providers to be accredited initially and maintain accreditation, which provides another layer of oversight and recommended improvements that are monitored.
- On-site survey is completed every 3 years which includes background checks, training requirements, observations, and interviews. Any deficiencies require a plan of correction. Additionally, an on-site survey is completed for new providers within 6-9 months after starting services to monitor compliance and provide technical assistance.
- Incident Reporting Monitoring and Training is completed every three years to monitor compliance with reporting timelines, completion of incident reports, risk management, and follow up completed. Any deficiencies require a plan of correction.

- Case File Reviews completed quarterly through the Quality Management System (QMS) to monitor compliance with service planning development areas and program management monitoring activities, including the location where the visit occurred. Any deficiencies require a plan of correction.
- Grievance and complaint system with necessary corrective actions.
- Technical assistance and training opportunities provided to address concerns. Training in service planning development is provided twice per year to Program Management and licensed providers. Additionally, DD conducts and will continue monthly training to Program Management on a variety of topics and extends the invitation to licensed providers on any relevant topics.
- State Monitoring and Implementation Plans and other activities are implemented to address provider non-compliance.

Prior to the OIG audit in 2024, North Dakota recognized the need to make improvements which has included completion of the following:

- DD Section completed a reorganization in 2024 establishing a defined Quality Assurance team, adding two positions, and identifying a lead manager.
- The state uses a Quality Management System (QMS) to monitor compliance and has engaged in updates to improve internal tracking and reporting for oversight for surveys and incident management.
- Enhancements to the oversight and monitoring of compliance for incident reporting have been completed and went into effect October 2025. This included more focused training on non-compliance findings specific to the provider and changing the follow-up process for any findings.
- The state has updated and made enhancements to the initial licensing process toward provider quality which included updates to the new provider orientation, submission of a business plan, letters of reference, identifying specific policy and procedure requirements, and how policy and procedures are reviewed and approved.
- DD will be implementing semi-annual training for Program Management and licensed providers beginning April 2026 on incident reporting and documentation requirements. This training was previously provided during the 3-year incident reporting monitoring process. It was identified that more frequent training is needed on the state's requirements.
- The state will be implementing a new licensing portal in 2026 that will guide a provider through step by step the initial and annual licensing process and requirements. The portal will include the provider having to attest to requirements and good standings, built in policy/procedure template that will include what the state requires, and trigger the provider to submit for review any policies and procedures that have been updated since the initial or previous licensing. Additionally, the licensing portal will contain knowledge articles and resources pertaining to state and federal requirements.
- A new Learning Management System (LMS) is currently in development and expected to be released in 2026. It will include state approved training that will provide consistency, standardized foundational training, and the required initial and annual trainings for provider staff. Additionally, LMS may provide the state with an easier way to track and monitor training compliance.
- Some regional Program Administrators have regular meetings with their local providers to discuss any concerns, relay updates, problem-solve, information sharing, and provide support.

- The DD Section’s Program and Policy Manager, which was a new position in 2024, implemented conducting provider visits statewide to discuss any concerns, relay updates, problem-solve, information sharing, and provide support.

North Dakota will explore the following areas to further identify any needed improvements to the state’s oversight and monitoring activities:

- Outside of implementing plans of correction and licensure actions, explore implementing other responses to **non**-compliance as an effort to hold providers more accountable especially for repeats of non-compliance (e.g. sanctions, fees, update licensing actions).
- Explore potential HCBS survey updates and changes to how follow up and verification is completed with plans of correction.
- **Re**-evaluate process, policy expectations, documentation, and follow-up for DDPM quarterly **in-person** visits and the environmental scan. Provide targeted training.
- Licensing code and processes will continue to be reviewed for updates and enhancements.
- Will continue to explore methods for improved data analysis and collection to support best practices, outcomes, and services.

Recommendation 3: North Dakota work with residential providers to improve internal controls for health and safety at residential settings, maintenance of records, and training.

North Dakota concurs and expects providers to implement and maintain internal controls. Providers are responsible for ensuring ongoing compliance with all requirements. North Dakota will continue to collaborate with providers to support these efforts, which may be accomplished through a variety of approaches including:

- Prior to the OIG audit, the state was working on implementing a new Learning Management System (LMS) and identified provider issues with maintenance of training. LMS is planned to be released in 2026. All providers will be required to use the LMS that will house required trainings, track training completed upcoming due dates, and past due dates. This will provide standardized foundational training and tracking of training. The state is exploring the ability for the LMS to have notifications and dashboards. This will provide for a more easy and efficient tracking system that will replace tracking methods developed by each provider.
- The state was exploring other avenues to complete the required background checks to be completed by another entity which would ensure all the required checks are completed.
- The state will explore potential changes to how follow up is completed with plans of correction and improve verification for HCBS surveys that will address how providers complete or improve their internal controls.
- The state will continue to internally evaluate its existing administrative code, new provider and Program Management orientation, and policies and procedures to identify areas where additional clarification, training, and updates may be needed to ensure best practices and meeting state and federal requirements.
- The state will continue to provide training and technical assistance as needed.
- The state will share and discuss the OIG report/findings statewide with the Program Management and licensed providers. The state will continue to discuss opportunities on how to better monitor the delivery of waiver services and what to look for during the visits in the home.

Additional Clarifications

To gain a more comprehensive understanding of the identified noncompliance and ensure North Dakota was fully informed, an additional internal review was conducted. This effort was intended to provide further context and clarification where needed.

HCBS Surveys

- HCBS surveys are to be completed once every three years. The OIG audit did identify that there were incidents of where this timeline was exceeded. Currently there is a tracking system in place that is used to identify what month the next survey is due. However, by identifying the 3-year timeline in the HCBS survey manual, it was not intended that the survey was to be completed to the exact 3-year date and have recognized the need for clarification
- DD completed a review of the survey dates that were provided to the OIG. Out of 17 providers sampled there were 6 HCBS surveys completed that were untimely by just days of it being exactly 3 years
- It's important to conduct surveys timely, however, the need for flexibility is also important to consider. The state will update the survey process manual to allow for a little flexibility either before or after three-year completion timeline as there are times when the survey needs to be rescheduled or completed at a reasonable later time

Environmental Scans

- Environmental scans are to be completed yearly. The OIG audit did identify times when they were not completed timely and results were not always completed thoroughly or consistent with people's service plans. Per DD policy, the scans are to be completed anytime 3 months prior to the license expiration and submitted to the licensing administrator 2 months prior to the provider's license expiring for group homes. For settings that are not licensed as group homes, the scans are completed anytime during the quarter before the person's annual service plan.
- DD completed a review of the environmental scans that they provided to OIG, comparing the dates of the current scan to the previous scan.
 - The majority of them were completed annually, however, there were scans that were completed anywhere from a couple of days up to 1-2 months past the previous annual completion date. Comments from environmental scans completed did identify and document concerns such as bedroom doors not having locks, unpleasant smells, broken items, upkeep needed, repairs needed, fire extinguisher checked, what follow up is needed from the provider, etc. However, the detail and amount of information contained in the scans did vary upon the region or who completed them.

Driver's License on File

- ND Administrative Code 75-04-01-20.1.r does identify that staff hold a valid driver's license who provide transportation to individuals. Providers are expected to comply and maintain documentation. Depending on the staff's duties and job description, not every staff is required to drive or have a driver's license.

Proof of Automobile Insurance

- ND Administrative Code 75-04-01-38 does identify the licensees shall secure automobile or vehicle insurance covering property damage, comprehensive, collision, uninsured motorist, bodily injury, and no fault. Providers are expected to comply and maintain documentation.

Vehicles Being Equipped with First-Aid Kit and Fire Extinguisher

- ND Administrative Code 75-04-01-20.1.r does identify all vehicles owned by the licensee must be equipped with a first-aid kit and a fire extinguisher.

- This requirement was meant to be applicable only for those provider-owned vehicles and not for staff who use their personal vehicles to provide transportation to individuals. The state will explore if updates or clarification are needed.

Critical incident reporting to P&A untimely

- P&A implemented a change to its reporting system by discontinuing the use of an after-hours on-call line requiring providers to leave a voicemail or submit reports online outside of business hours. This change made independently of the DD Section, created confusion among some providers who believed they needed to wait and report only during regular business hours. This misconception persists for some providers, and efforts to retrain and clarify reporting expectations are ongoing.

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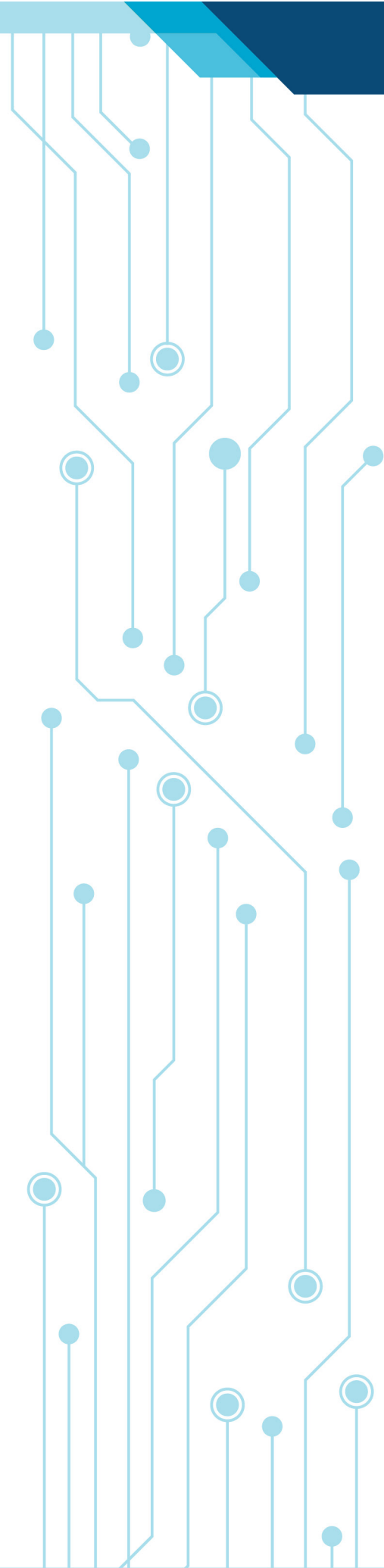
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